

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.11.2016
CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.Nos.35366 & 35367 of 2016 &
W.M.P.No.30455 of 2016

C.Sakthivel

... Petitioner in
both WPs.

Vs.

1. The Director of Adi Dravidar Welfare,
Chepauk,
Chennai - 600 005.
2. The District Adi Dravidar & Tribal Welfare Officer,
Villupuram District,
Villupuram.

... Respondents
in both WPs

Prayer in W.P.No.35366 of 2016 :

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned charge memo issued by the first respondent in Na.Ka.No.02/10532-2/2015 dated 18.08/2016 and to quash the same and consequently direct the respondents to transfer the petitioner to Government Tribal Residential Higher Secondary School, Gomuki Dam, Villupuram District.

Prayer in W.P.No.35367 of 2016 :

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to pass final orders in the charge memo in Na.Ka.No.02/10532/2015 dated 23/04/2015 based on the explanation submitted by the petitioner dated 23.05.2015 enclosed with documents in accordance with law and to exonerate the petitioner from the charges based on the explanation submitted, with all consequential and other attendant benefits.

For Petitioner in both W.Ps : Mr.G.Sankaran

For Respondents in both W.Ps : Mr.S.N.Parthasarathi
Government Advocate

C O M M O N O R D E R

By consent, the writ petitions are taken up for final disposal. Since the issue involved in both the petitions are related to each other, they are disposed of by a common order.

2. The Writ Petition in W.P.No.35367 of 2016 has been filed to direct the respondents to pass final orders in the charge memo in Na.Ka.No.02/10532/2015 dated 23/04/2015 based on the explanation submitted by the petitioner dated 23.05.2015 and the Writ Petition in W.P.No.35366 of 2016 has been filed to call for the records relating to the impugned charge memo issued by the first respondent in Na.Ka.No.02/10532-2/2015 dated 18.08.2016 and to quash the same and consequently direct the respondents to transfer the petitioner to Government Tribal Residential Higher Secondary School, Gomuki Dam, Villupuram District.

3. The case of the petitioner is that while the petitioner was working on Gomuki Dam GTR Higher Secondary School, an anonymous complaint was given in the name of one A.Murugan on 17.03.2015 as if the petitioner misbehaved with girl students. The complaint was given with an ill motive by staff in the Department wielding control over the hostels for extraneous reasons. As the petitioner demanded quality food to the students and cleanliness in the campus, that was considered to be involving expenditure for them, the said complaint was given in fictitious name with false allegations only to thwart the petitioner from the school. Based on the bogus representation submitted in the name of A.Murugan, the Regional Assistant Director (Education) visited the school premises on 10.04.2015 and conducted an enquiry and found that there was no truth in the allegations. Whereas, it was found that on the end of enquiry, someone called him over phone in female voice and made complaints against the petitioner without disclosing name or identity. Thereafter, the petitioner was issued with a charge memo on 23.04.2015 on four counts that petitioner was working as B.T. Assistant in Government Services also hold the post of Deputy Secretary in a political party and not attending school in time and not taking classes properly and taking alcohol inside the school, showing wrong way to the students and finally misbehaved with girl students and further threatened the students. On enquiry, the petitioner came to know that there is no person in the name of A.Murugan in the given address and the petitioner also obtained documents from the Revenue Department to that effect. On the basis of the said documents, the petitioner submitted his detailed explanation to the first respondent by refuting all the charges and also by stating that the complaints are bogus came to be issued by someone to harass

the petitioner and accordingly requested to exonerate the petitioner from the charges. Even though the petitioner submitted his explanation as early as on 23.05.2015, the respondent has not conducted any further enquiry. In the meanwhile, the petitioner was transferred to Kottaputhur GTR High School in Kalvarayan Malai on administrative grounds. Since the said order of transfer came to be issued along with charge memo as a penalty, it is ex facie illegal and arbitrary. However, the petitioner joined duty in the said school.

4. While so, the petitioner made an application for transfer to Gomuki Dam GTR HSS by participating in the regular transfer counselling on 12.07.2016 as per G.O.Ms.No.142 dated 20.07.2016 for conducting transfer counselling for the post of B.T. Assistant on 09.08.2016. However, the petitioner was not issued with any order of transfer. But the first respondent issued proceedings dated 18.08.2016 on the premises that the petitioner submitted an application for transfer to Gomuki Dam GTR HSS by suppressing the fact that he was already issued with a charge memo dated 23.04.2015 and subjected to transfer on administrative grounds as per order dated 23.04.2015 and the petitioner cannot ask for transfer from the present station within two years. The said proceedings issued by the first respondent is challenged in the Writ Petition in W.P.No.35366 of 2016. Since, no order has been passed in the earlier charge memo dated 23.04.2015 by considering the explanation submitted by the petitioner dated 23.05.2015, the Writ Petition in W.P.No.35367 of 2016 has been filed for a direction to direct the respondents to pass a final order in the charge memo given to the petitioner dated 23.04.2015.

5. I have heard the learned counsel appearing for the petitioner and the learned counsel who take notice for the respondents.

6. The only contention of the petitioner is that even though the petitioner submitted his detailed explanation on 23.05.2015 to the charge memo issued by the first respondent on 23.04.2015, for the past more than one year and four months, no final order has been passed on the said charge memo. Hence he sought for a direction to direct the respondents to pass final order on the charge memo issued by the first respondent on 23.04.2015. I find justification in the prayer made by the petitioner.

7. In view of the limited prayer sought for by the petitioner, this court, without going into the merits of the claim of the petitioner, directs the first respondent to pass final orders in the charge memo in Na.Ka.No.02/10532/2015, dated 23.4.2015 based on the explanation submitted by the petitioner dated 23.05.2015 on merits and in accordance with law within a

period of six weeks from the date of receipt of a copy of this Order.

8. With regard to the other Writ Petition in W.P.No.35366 of 2016 filed to quash the charge memo issued to the petitioner on 18.08.2016 in Na.Ka.No.02/10532-2/2015, the respondents are directed to keep the charge memo in abeyance till final orders were passed in charge memo issued to the petitioner on 23.4.2015.

9. With the above directions, the present writ petitions are disposed of. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

vrc

To

1. The Director of Adi Dravidar Welfare,
Chepauk,
Chennai - 600 005.
2. The District Adi Dravidar & Tribal Welfare Officer,
Villupuram District,
Villupuram.

W.P.Nos.35366 & 35367 of 2016

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