

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2016

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THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

W.P. No. 41327 of 2016
&
W.M.P. No. 35276 of 2016

K. Velu ..Petitioner
Vs.

The Chief Educational Officer,
Dharmapuri District,
Dharmapuri. ..Respondent

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorari to call for the records relating to the proceedings of the impugned charge memo dated 14.11.2016 made in Na.Ka.No. 2906/A2/2015 issued by the respondent and to quash the same.

For Petitioner :: Mr.C. Prabakaran

For Respondent :: Mr.V. Anandamoorthy,
Addl. Govt. Pleader

O R D E R

Mr.V. Anandamoorthy, learned Additional Government Pleader accepts notice on behalf of the respondent.

2. By consent, the main writ petition itself is taken up for final disposal.

3. The affidavit filed in support of the writ petition would disclose, among other things, that the petitioner was appointed as Secondary Grade Teacher and posted at Government Boys Higher Secondary School, Thirumalvadi, Dharmapuri District vide proceedings of the respondent dated 24.07.1995 and thereafter, he was transferred to Government Boys Higher Secondary School during the year 1996. The petitioner claims that he has been performing his duties without any blemish, to the utmost satisfaction of his superior officers.

4. The petitioner would further state that during the course of his service, he noted so many irregularities and misconduct committed by the Headmaster, Government Higher Secondary School, Palacode, Dharmapuri District, which was also brought to the notice of the respondent, the Director of School Education and also in the form of representation dated 13.07.2015 to the Honourable Chief Minister's Grievance Cell. On receipt of the said representation, the same was forwarded to the Director of School Education, Chennai for necessary action and thereafter, an enquiry was ordered with regard to the conduct of the Headmaster of Government Higher Secondary School, Palacode, Dharmapuri District. It is further stated by the petitioner that immediately after the enquiry was ordered, he was issued with an order of transfer dated 16.09.2015 by the respondent, in the form of an order of deputation to Government High School, Poochoor, on the ground of shortage of teachers. Therefore, the petitioner challenged the same by filing W.P. No. 30636 of 2016 and an order of interim stay was passed in W.M.P. No. 26607 of 2016 on 02.09.2016, which was in force for some time and thereafter, it was not extended on the ground that the said matter could not be listed for extension of interim order. The grievance now expressed by the petitioner is that in order to wreck vengeance and with mala fide intention, the impugned charge memo dated 14.11.2016 came to be issued by the respondent.

5. Learned counsel appearing for the petitioner would submit that the petitioner has made a specific allegation against the respondent stating that the issuance of charge memo is consequent to the filing of the above said writ petition and getting interim orders against the respondent, who is the Headmaster of Government Higher Secondary School, against whom serious allegations have been made and by drawing the attention of this Court to charge No.1, he would submit that approaching the Court by filing writ petition is construed as a misconduct and therefore, prays for quashment of the charges.

6. Per contra, Mr.V. Anandamoorthy, learned Additional Government Pleader would submit that the Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, should be slow in interfering with the disciplinary proceedings, in the form of charge memo. Though the petitioner has alleged mala fide, he has failed to prove the same and he would further submit that contents of the charge memo are very serious and it requires oral and documentary evidence and prays for dismissal of the writ petition.

7. This Court paid its best attention of the rival submissions and also perused the materials placed on record.

8. A perusal of charge No.1 would disclose that filing W.P. No. 30636 of 2016 and getting an order of interim stay in W.M.P. No. 26607 of 2016 is construed as a misconduct . In the considered opinion of this Court, charge No.1 is per se unsustainable for the reason that it is for the aggrieved individual concerned to establish his right by approaching the Court in the form of review and the same cannot be construed as a misconduct. Therefore, charge No.1 is quashed. Insofar as rest of the charges are concerned, which revolve around dereliction, it is always open to the petitioner to submit his written statement refuting the allegations and he is also entitled to putforth his defence in respect of the said charges that they are false and per se unsustainable. This Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, normally, would not interfere with the charge memo unless an error in jurisdiction is pointed out.

8. In the result, the writ petition is partly allowed and charge No.1 alone is set aside. It is open to the respondent to proceed with the rest of the charges and it is open to the petitioner to submit his explanation/written statement of defence to the charges and as and when it is received, the disciplinary proceedings shall be conducted and concluded in accordance with law, within a period of eight weeks thereafter. No costs. Connected W.M.P. is closed.

Sd/-

Assistant Registrar (CS.II)

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Sub-Assistant Registrar

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To

The Chief Educational Officer,
Dharmapuri District,
Dharmapuri.

1. CC to Mr.C.Prabakaran,Advocate,SR. 71879/16
2. CC to Government Pleader,SR.72219/16.

W.P. No. 41327 of 2016

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