



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2016

CORAM:

THE HONOURABLE Mr.JUSTICE T.RAJA

W.P. (MD)No.10089 of 2016

and

W.M.P. (MD)No.7903 of 2016

D.Viswanathan

...Petitioner

Vs.

1.The Director of School Education,
(Higher Secondary),
D.P.I.Compound, College Road, Chennai.

2.The Chief Educational Officer,
Ramanathapuram Education District,
Ramanathapuram.

...Respondents

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the 2nd respondent vide Na.Ka.No.9746/A5/2015 dated 29.12.2015 and quash the same as illegal and consequently, direct the respondents to conduct fresh enquiry by following natural justice and in accordance with law.

For Petitioner : Mr.C.Arul Vadivel @ Sekar

For Respondents : Mr.Aaiyeram K.Selvakumar, G.A.

O R D E R

Mr.Aaiyeram K.Selvakumar, learned Government Advocate takes notice for the respondents. By consent, the Writ petition itself is taken up for final disposal.

2.Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

3.The petitioner namely, Mr.D.Viswanathan, while serving as Drawing Master (Secondary Grade Cadre) in the Government Higher Secondary School, Kadaladi, Ramahtapuram District, after putting in service for about 19 years, suffered a charge memo issued by the 2nd respondent vide Na.Ka.No.9587/A5/2015, dated 29.12.2015, under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, seeking for explanation from him within 15 days from the date of receipt of a copy of the charge memo.



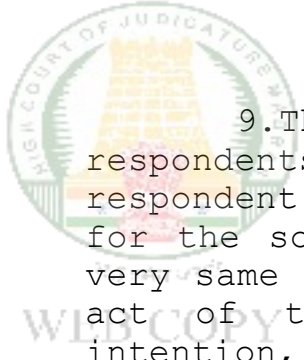
4. It is submitted by the learned counsel for the petitioner that, after issuing the said charge memo on 29.12.2015, on the very same date, the 2nd respondent has passed the impugned order with the finding that the charges stand proved and thereafter, he transferred the petitioner to the Government Higher Secondary School, Pottagavayal, Paramakudi Taluk, Ramanthapuram District. Learned counsel would further submit that since both the charge memo and the impugned order were served on him only on 04.01.2016, the petitioner made a representation to the 2nd respondent, stating that the impugned order passed on the very same date of issuance of charge memo namely on 29.12.2015, is in violation of the principles of natural justice as no opportunity was given to defend against the charge memo.

5. Further, in order to show obedience to the order of transfer, the petitioner joined in the Government Higher Secondary School, Pottagavayal, Paramakudi Taluk, on 05.01.2016. Subsequently, he sent a representation to the 2nd respondent through registered post on 12.01.2016, denying all the charges. Even after receiving the explanation, the 2nd respondent did not take any step to conduct a proper enquiry, therefore, the petitioner is before this Court with the present Writ petition.

6. It was argued by the learned counsel for the petitioner that the charge memo, dated 29.12.2015, cannot stand to the test of legal scrutiny since on the very same date, the 2nd respondent has passed the final impugned order, without giving any reasonable opportunity to the petitioner.

7. Mr. Aaiyeram K. Selvakumar, learned Government Advocate appearing for the respondents fairly submitted that both the charge memo and the impugned order of punishment passed, are in violation of the principles of natural justice and hence, the same are liable to be set aside.

8. When it is an admitted case that both the charge memo and the impugned order were issued on 29.12.2015, in clear violation of the principles of natural justice, the same are liable to be set aside. It is not known why the 2nd respondent, who issued the charge memo on 29.12.2015 under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, seeking explanation within 15 days from the date of receipt of the charge memo, has passed the final order on the very same date. Therefore, it is clear that the impugned proceedings are nothing but an outcome of malafide intention. Therefore, the Writ petition stands allowed and the impugned order is set aside. No costs. Consequently, connected M.P. is closed. The 2nd respondent is directed to post the petitioner back in the original place forthwith.



9. The learned Government Advocate appearing for the respondents requested to remand the matter back to the 2nd respondent. But, this Court is not able to see any justification for the sole reason that the final order has been passed on the very same date of issuing the charge memo. In other words, as the act of the 2nd respondent clearly indicates his mala fide intention, the respondents do not deserve any such liberty from this Court to proceed against the petitioner.

Sd/-

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To

1. The Director of School Education, (Higher Secondary),
D.P.I. Compound, College Road, Chennai.

2. The Chief Educational Officer,
Ramanathapuram Education District, Ramanathapuram.

+1 cc to M/s. C. Arul Vadivel @ Sekar, Advocate in SR.No.28857/16

+1 cc to The Special Government Pleader in SR.No.29076

nbj

CSL/NGM-MP/08.06.2016:3P/5C

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