

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition Nos.24562 and 24563 of 2016
and WMP.Nos.20953 and 20954 of 2016

M.Chinnamuthu ...Petitioner in both W.Ps.
Vs.

1.The Director of School Education
College Road
Chennai-6

2.The Chief Educational Officer
Dharmapuri District
Dharmapuri

3.The Chief Educational Officer
Krishnagiri District
Krishnagiri

4.K.P.Mageshwari ...Respondents in both W.Ps.

Prayer in W.P.24562 of 2016:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in relation to the proceedings issued in Na.Ka.No.040224/w1/e3/2016 dated 27.06.2016 and quash the same and issue a consequential direction to the respondents to drop further proceedings.

Prayer in W.P.No.24563 of 2016 :- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in relation to the proceedings issued in R.C.No.040224/w1-S3/2016 dated 20.06.2016 and in R.C.No.040224/W-1-S3/2016 dated 29.06.2016 and quash the same and issue a consequential direction to the respondents to drop further proceedings.

For Petitioner : Mr.R.Saseetharan

For Respondents : Mr.V.Jayaprakash Narayanan
Spl.Govt.Pleader for R1 to R3
in both WPs.
No appearance for R4 in both Wps.

COMMON O R D E R

The petitioner has come before this court with the above two writ petitions, one challenging the charge memo dated 27.06.2016 and to quash the same the another writ petition assailing the correctness of the order of suspension dated 29.06.2016 and to quash the same.

2. The impugned order of charge memo was attacked by the petitioner on the ground that the 1st respondent failed to see that the date of retirement of the petitioner is 30.06.2016 and wrongly framed the charge memo and served the same on the last day of service i.e, on 30.06.2016 and placed the petitioner under suspension by passing the order of suspension dated 29.06.2016. Again it is contended that the charges levelled against the petitioner were vague, indefinite and without any particulars and the reason is that the Director of School Education has not framed the charges on item wise with dates and incident, on the contrary, he has framed the charges in one consolidated statement by stating that the charges framed as stated in the letter of Chief Educational Officer, Krishnagiri District, without even applying his mind independently. It is further contended that as per Section 17(b) of the CCA Rules, the statement of allegations is to be supplied to the person charged, but in the present case, no statement of allegations is furnished to the petitioner. Therefore, the statement of allegations along with memo of charges is running contrary to the mentioned rules. Moreover in Annexure 3 and 4, the letter of the Chief Educational Officer, Krishnagiri, dated 13.06.2016, is referred as document, but the same has not been furnished to the petitioner, which also violates Article 14 of the Constitution. Hence, while entertaining this writ petition on 02.03.2017, this court, passed the following order:

"After hearing the learned counsel appearing for the petitioner, this Court is of the prima facie view that the impugned charge memo is bereft of any material particulars, though, several allegations of misappropriation have been made. As rightly pointed out by the learned counsel appearing for the petitioner, the charge memo as well as annexures are also not in the prescribed format.

2. Counter affidavit filed by the second respondent would also disclose that no justification has been made satisfactorily.

3. In the light of the same, the first respondent is directed to furnish the additional particulars in the Form of (i) Annexure No.1- giving details of dates and events as to the alleged misappropriation said to have been

committed by the petitioner alone. (ii) Annexure No.2 - statement of impugned allegations (iii) Annexure No.3 - copies of the documents and (iv) Annexure No.4 list of witnesses, if any, to the petitioner along with copies, within a period of 3 weeks from the date of receipt of a copy of the order. "

3. A perusal of the charge memo shows that no specific date or the date of incident has been mentioned. Even as per Rules 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the grounds on which it is proposed to take action shall be reduced to the form of a definite charge or charges, which shall be communicated to the person charged, together with a statement of the allegation, on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing orders on the case. But, in the case on hand, such statement of allegation has also not been provided in the prescribed format and further the impugned charge memo is vague.

4. Learned Special Government Pleader, after taking instruction, has submitted that as per the interim order dated 02.03.2017, the 1st respondent will apply his mind and issue the proper charge memo containing all the particulars along with statement of allegations relied upon in the charge memo along with copies furnished to the petitioner.

5. Taking into consideration the above submission, liberty is given to the first respondent to issue fresh charge memo to the petitioner by furnishing the particulars as stated in the order of this court dated 02.03.2017. Accordingly, the interim order passed on 02.03.2017 is made absolute and the Writ Petition No.24562 of 2016 stands ordered on the above terms.

6. In view of the above order passed in Writ Petition No.24562 of 2016, this court does not find any merit in W.P.No.24563 of 2016, challenging the correctness of the impugned order of suspension dated 29.06.2016 and already the petitioner reached superannuation, hence, he has rightly been placed under suspension, by retaining him in service, so as to proceed with the department proceedings by retaining him in service.

7. Since it is requested by the petitioner for early conduct of enquiry, a direction is given to the 1st respondent to complete the enquiry, within six months from the date of receipt of a copy of this order. W.P.No.24563 of 2016 is disposed of accordingly. No costs. Consequently, connected MPs are closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

nvsri

To

1.The Director of School Education
College Road
Chennai-6

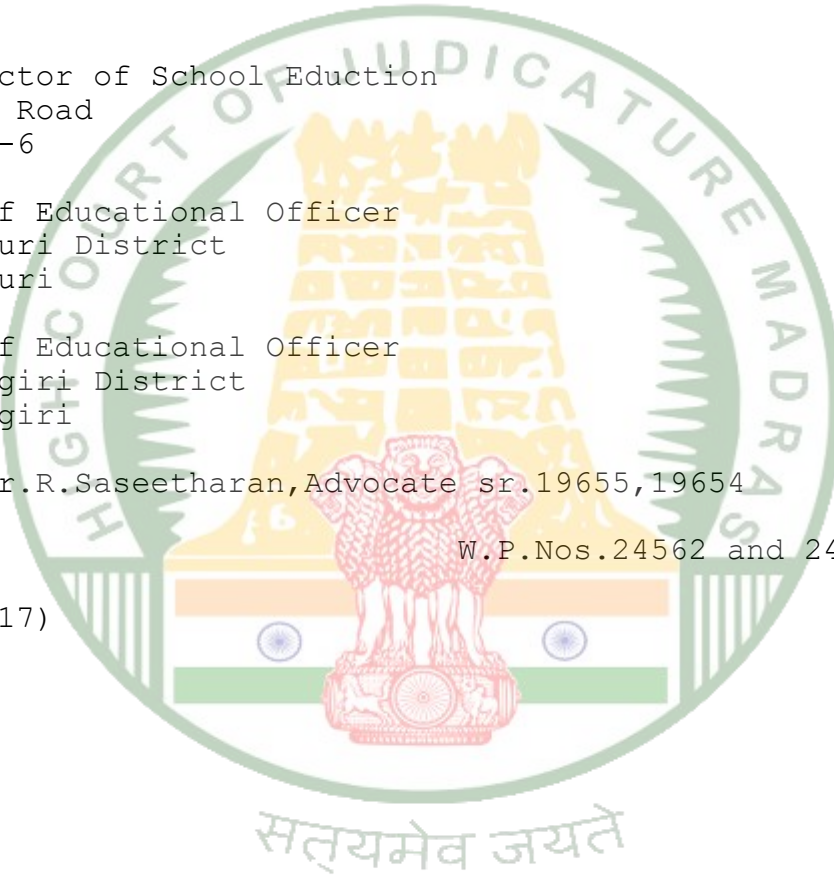
2.The Chief Educational Officer
Dharmapuri District
Dharmapuri

3.The Chief Educational Officer
Krishnagiri District
Krishnagiri

+2ccs to Mr.R.Saseetharan,Advocate sr.19655,19654

W.P.Nos.24562 and 24563 of 2016

vsn(co)
ss(12/4/2017)



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