



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :13.12.2017

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.14043 of 2014
and
M.P(MD)No.1 of 2014

M.Pandian ... Petitioner
Vs.

1.The Director of School Education,
Chennai-600 006.

2.The Chief Educational Officer,
Tirunelveli. ... Respondents

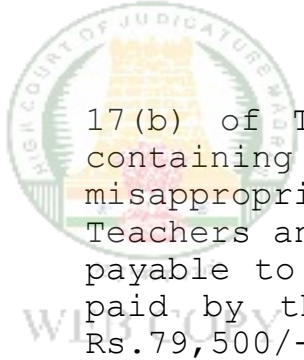
PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings in Na.Ka.No.112986/W3/2003, dated 12.01.2004 and consequent proceedings in R.C.No.112986/W1(3)/03, dated 28.07.2006, of the first respondent and to quash the same and consequently direct the respondents to disburse the retirement benefits with all benefits payable to the petitioner within the time frame fixed by this Court.

For Petitioner : Mr.J.Ashok
for M/s.Jeyapaul Associates
For Respondents : Mr.V.Muruganantham
Additional Government Pleader

ORDER

This writ petition has been filed, challenging the impugned proceedings in Na.Ka.No.112986/W3/2003, dated 12.01.2004 and consequent proceedings in R.C.No.112986/W1(3)/03, dated 28.07.2006, of the first respondent and to quash the same and consequently direct the respondents to disburse the retirement benefits with all benefits payable to the petitioner.

2.The petitioner was appointed as B.T. Assistant (Maths) on 25.01.1974, by the proceedings of the Commissioner, Tirunelveli Municipality, in C4-19594/73, dated 25.01.1974. After putting 26 years of service, he was promoted to the post of Headmaster, by the proceedings dated 16.08.2001 in Boys Higher Secondary School, Pettai, Tirunelveli. He was placed under suspension of service with effect from 16.12.2003, by the first respondent vide proceedings dated 23.12.2003, in R.C.No.112986/W3/2003 and a charge memo under

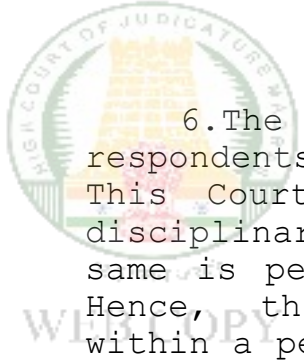


17(b) of Tamil Nadu Civil Service (Discipline and Appeal) Rules, containing charges have been issued against him alleging that he has misappropriated a sum of Rs.2,67,998/- which was paid by the Teachers and Non-teaching staffs of the school towards loan accounts payable to respective banks and that a sum of Rs.32,650/- which was paid by the Teachers towards postal savings and that a sum of Rs.79,500/- payable to him under General Provident Fund Advance Amount and that a sum of Rs.13,000/- payable to Lakshman, Office Assistant, from General Fund Account.

3. Having not satisfied with the explanation given to the charge memo by the petitioner, the first respondent, through his proceedings dated 26.01.2004, appointed the second respondent as Enquiry Officer, in order to conduct enquiry relating to the charges levelled against the petitioner. The appointment of second respondent, the enquiry officer, as submitted by the petitioner, is violation of "Principles of Natural Justice" because the second respondent had already submitted the preliminary report, dated 25.11.2003, that the petitioner misappropriated certain funds, which led to the issuance of charge memo dated 12.01.2004. The apprehension of the petitioner is that the enquiry before the second respondent would not be fair. However, the second respondent concluded the enquiry and submitted his report, dated 06.06.2005, before the first respondent and found guilty of all charges of the petitioner. Hence, the first respondent in his proceedings in Na.Ka.No.112986/W1(3)/03-01, dated 27.01.2006, had called for objection from the petitioner to the enquiry report dated 06.06.2005.

4. The petitioner had also submitted explanation towards the enquiry report. The first respondent (Disciplinary Authority) has not passed final orders for the 17(b) charges pending against the petitioner till date. In the mean while, the petitioner has attained the age of superannuation on 31.07.2006. The first respondent through his proceedings in R.C.No.112986/W1(3)/03, dated 28.07.2006, did not permit the petitioner to retire from service pending finalization of charges. The retention order dated 28.07.2006, was served only on 31.07.2006, on the date of retirement through the second respondent.

5. Now, the petitioner has attained the age of 67 years and because of chronic sugar, he lost vision of one eye and a finger in the leg. Even, after a lapse of ten years, the first respondent has not concluded the disciplinary proceedings regarding 17(b) charges and the petitioner is only receiving provisional pension. Hence, he has approached this Court, by way of this writ petition, challenging the impugned proceedings in Na.Ka.No.112986/W3/2003, dated 12.01.2004 and consequent proceedings in R.C.No.112986/W1(3)/-3, dated 28.07.2006 of the first respondent and to quash the same and consequently, directing the respondents to disburse the retirement benefits with all benefits payable to the petitioner.



6.The learned Additional Government Pleader appearing for the respondents have not filed any counter as against the petitioner. This Court is of the view that there is no progress in the disciplinary proceedings initiated as against the petitioner and the same is pending for passing final orders by the first respondent. Hence, this Court directs the respondent to pass the final order, within a period of two months from the date of receipt of a copy of this order.

7.With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

1.The Director of School Education,
Chennai-600 006.

2.The Chief Educational Officer,
Tirunelveli.

+1CC TO M/S.J.ASHOK, ADVOCATE, SR NO.92560
+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.92726

ORDER MADE IN
W.P (MD) No.14043 of 2014
and
M.P (MD) No.1 of 2014
13.12.2017

SSS

MS/SV-MMS/SAR-1/22.03.2018/3P.5C