



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 02.02.2017

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A. (MD) Nos.815 and 1077 of 2011

P.K.Sriram

.. Appellant in
both the appeals/
writ petitioner

vs.

1. The Sourashtra Higher Secondary School,
by its Correspondent and Secretary,
110, Kamarajar Salai,
Madurai -9.'
2. The District Educational Officer,
Tallakulam, Madurai-2.
3. The Chief Educational Officer,
Tallakulam,
Madurai -2.
4. The Director of School Education,
Chennai.

... Respondents in
both the appeals /
Respondents

Writ Appeals have been filed under Clause 15 of the Letters Patent, against the orders dated 09.08.2011 and 26.08.2011, made in W.P.(MD).No.3841 of 2006 by a learned Single Judge of this Court.

Prayer in WP(MD).3841/ 2006 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue Writ of certiorarified Mandamus, call for the records of the impugned order of dismissal from service dated 06/12/2005 of the 1st respondent and quash the same and to direct the respondents to reinstate the petitioner in service together with all attended benefits arising thereon and



WEB COPY

For appellant in both
the appeals

: Mr.Veera Kathiravan,
Senior Counsel
For Mr.K. Muthumalai

For 1st respondent in
both the appeals

: Mr.V.Meenakshi Sundaram
for Mr.D.Nallathambi

For respondents 2 to 4 in
both the appeals

: Mr.V.R.Shanmuganathan,
Special Government Pleader

COMMON JUDGMENT

(Judgment of the Court was delivered by **R.SUBBIAH, J.**)

These writ appeals have been filed by the appellant / writ petitioner as against the two orders passed by a learned Single Judge of this Court in W.P.(MD).No.3841 of 2006, whereby and whereunder the learned Single Judge has, by order dated 09.08.2011, rejected the request made by the appellant herein for placing on record the additional typed set of papers and additional affidavit, and by order dated 26.08.2011, dismissed the writ petition stating that the learned counsel for the appellant refused to render assistance.

2.Since both the writ appeals have arisen out of one and the same writ petition, both the appeals heard together and disposed of by way of this common judgment.

3.The brief facts of the case of the appellant before the learned Single Judge is that the appellant was issued with a charge memo alleging misconduct, for which he had also sent his reply to the said charge memo. Being not satisfied with the explanation, an enquiry was conducted and the enquiry officer has held that the charges against the appellant are proved. Based on the said report, the competent authority has terminated the service of the appellant. Aggrieved by the said order, the appellant has filed the writ petition.

4. At the time of filing of the writ petition, an affidavit was filed without placing any document. When the writ petition came up for final hearing, the learned counsel for the appellant tried to hand over Additional Typed set of papers with Additional Affidavit. Hence, the learned Single Judge has, by passing a detailed order dated 09.08.2011, rejected the oral request of the learned counsel for the appellant to receive the Additional Typed



set of papers and Additional Affidavit. Subsequently, when the matter came up for hearing on 26.08.2011, the learned Single Judge has dismissed the writ petition, since the learned counsel for the appellant has sought for adjournments and refused to render assistance to the Court.

WEB COPY

5. It is the main submission of the learned senior counsel for the appellant that the Appellate Side Rules 2(b) framed by this Court is not prohibiting for filing of additional typed set and raising of additional grounds, without any application being filed. He would further submit that though now the Rules were framed with regard to filing of Additional Affidavit and Additional Typed Set of Papers, the said Rules were initially kept in abeyance by this Court and the same was subsequently suspended until further orders. When the rules were suspended, the order passed by the learned Single Judge for not accepting the additional typed set of papers and additional affidavit is not correct. So far as the order dated 26.08.2011 is concerned, the learned senior counsel for the appellant submitted that he would render his assistance and that he would not seek any adjournment. Thus, he prayed to set aside the orders passed by the learned Single Judge.

6. We have heard the learned counsel appearing for both sides and perused the materials available on record carefully.

7. In paragraph No.11, the learned Single Judge has held that though amended rules were not applicable, when the writ petition was filed, however, these Rules are now notified and are supposed to be in force and it is, therefore, not possible to file Additional Typed Set of Papers or Additional Affidavit without the documents forming part of the pleadings. Admittedly, the Additional Typed Set of Papers and Additional Affidavits are being accepted by the writ Court without standing on any technicalities. Though the Rules have been amended in order to regulate such kind of practice, the same were subsequently suspended. Hence, this Court is not inclined to accept the reason assigned by the learned Single Judge.

8. So far as the order dated 26.08.2011 passed by the learned Single Judge is concerned, since the learned counsel for the appellant submitted that he would render his assistance and he would not seek any adjournment, this Court is inclined to set aside that order of the learned Single Judge and to remit the matter back to the file of the learned Single Judge.

9. In view of the above, both the writ appeals are allowed and both the orders passed by the learned Single Judge are set aside and the matter is remitted back to the file of the learned Single Judge with a request to accept the additional typed set of papers and additional affidavits to be filed by the appellant and dispose



of the writ petition, on merits and in accordance with law, as early as possible. No costs.

Sd/-

Assistant Registrar(RTI)

WEB COPY

/True Copy/

Sub Assistant Registrar

To

1.The District Educational Officer,
Tallakulam, Madurai-2.

2.The Chief Educational Officer,
Tallakulam,
Madurai -2.

3.The Director of School Education,
Chennai.

+1cc to Mr.K.Muthumalai, Advocate Sr.No.5960

+1cc to Spl.Government Pleader Sr.No.6297

Copy to

The Section Officer, Writ Section,
Madurai Bench of Madras High Court,Madurai.
To list the matter before appropriate Court.

Gcg

vb/kp/sar2/26.04.2017/4p/7c

Writ Appeal (MD) Nos.815 and 1077 of 2011
02.02.2017