

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 5.2.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.1764 of 2017
and
C.M.P.No.22362 of 2017

The Correspondent
Advent Christian High Schools
Valachery Chennai - 600 042 Appellant/2nd Respondent

Versus

1 Tmt. A. Hilda
2 The District Educational Officer
Saidapet Chennai Central
Chennai - 600 015

Respondents/Petitioner/
Ist Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 6.10.2017 passed in W.P.No.36791 of 2015 on the file of this court.

WP.No.36791 of 2015:Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus to call for the entire records connected with the impugned order of suspension dated 31.07.2015 passed by the 2nd respondent and quash the same and further Direct the respondents to reinstate the petitioner in service with continuity of service and all consequential benefits.

For appellant : Ms.Dakshayani Reddy
For R2 : Mrs.P.Rose Kamalam,
Government Advocate
For R1 : Mr.S.N.Ravichandran

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

1. Heard the learned counsel appearing for the appellant and the learned Government Advocate appearing for the second respondent.

2. The writ appeal has been filed by the School aggrieved by the order passed by the learned Single Judge directing reinstatement of the first respondent herein with continuity of service and all other consequential benefits.

3. It appears that the first respondent herein, Headmistress of the appellant School, who stood as surety for the loan availed by her husband from Tamil Nadu Mercantile Bank, was implicated in a criminal case on the ground that she had created and submitted a bogus document for getting the loan amount for her husband.

4. The learned Single Judge, having found that no notice is shown to have been served prior to passing the impugned suspension order dated 31.7.2015 and no charge memo was issued even after lapse of 24 months nor the suspension order was extended by recording reasons, ordered for reinstatement of the first respondent herein with continuity of service and all other consequential benefits following the decision of the Apex Court in AJAY KUMAR CHOUDHARY v. UNION OF INDIA (2015 (7) SCC 291).

5. Now, it is contended on behalf of the appellant that charge memo had been issued on 25.8.2017 with the charges of serious in nature and therefore, the decision in Ajay Kumar Choudhary's case would not apply to the case on hand.

6. Be that as it may, it appears that after lapse of more than two years from the date of passing the order of suspension which was passed without any show cause notice, the charge memo has been issued. It is pertinent to note that the first respondent being a Headmistress by profession, is said to have stood only as surety for the loan availed by her husband for his business and there is no basis for her direct involvement in creating any bogus document. The charge memo issued also has nothing to do with the discharge of her duties which involves mere academic work which would not have any bearing on either the criminal proceedings or the departmental proceedings, both being independent ones. It is needless to say that she would be entitled to subsistence allowance during her period of suspension which would be a burden to the exchequer when such amounts are paid without extracting any work.

7. Considering the facts and circumstances of the case and especially, the nature of work of the first respondent herein, we do not find any illegality in the order of the learned single Judge. Therefore, as ordered by the learned Single Judge, the first respondent herein shall be taken on duty forthwith and regular work shall be extracted from her however, her reinstatement would be subject to result of the impugned departmental proceedings/criminal proceedings.

8. In that view of the matter, while disposing the writ appeal, we direct the appellant to reinstate the first respondent on duty within a period of fifteen days from the date of receipt of a copy of this judgment. So far as the subsistence allowance is concerned, if not paid already as claimed by the first respondent herein, arrears of the same would be paid within a period of one month from the date of receipt of a copy of this judgment. However, it is made clear that the observations made by us in the abovesaid paragraphs are not to be considered as opinion for consideration in the departmental proceedings or the criminal proceedings. No costs. The connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1 The District Educational Officer
Saidapet, Chennai Central
Chennai - 600 015

+1 cc to Mr.Dakshayani Reddy Advocate sr 9451
+1 cc to Mr.S.N.Ravichandran Advocate sr 8255

W.A.No.1764 of 2017

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