



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD).No.1147 of 2018

and

W.M.P. (MD).No.1226 of 2018

V.Palaniyandi,  
District Educational Officer (Retired),  
Paramakudi,  
Ramanathapuram District. ...Petitioner

Vs.

- 1.The State of Tamil Nadu,  
Represented by its Secretary to Government,  
School Education Department,  
Secretariat, Chennai-9.
- 2.The Director of School Education,  
O/o the Directorate of School Education,  
DPI compound, Chennai-6.
- 3.The Joint Director of School Education (Personnel),  
O/o the Joint Director of School Education,  
DPI compound, Chennai-6.
- 4.The Accountant General (A&E),  
O/o. the Principal Accountant General (A&E),  
No.361, Anna Salai, Chennai-18.
- 5.The Chief Educational Officer,  
O/o.the Chief Educational Office,  
Ramanathapuram, Ramanathapuram District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned punishment order passed by the first respondent in his proceedings in அரசாணை (12) எண் .287 பள் ளிக் கல் வி(பக1(2) த் துறை dated 19.07.2016 and the consequential rejection order passed by the first respondent in his proceedings in அரசாணை (12) எண்.204 பள் ளிக் கல் வி(பக1(2)த் துறை 24.03.2017 and quash the same as illegal.

For Petitioner

: Mr.C.Venkateshkumar

For Respondents

: Mrs.S.Srimathi for R1 to R3 & R5  
Special Government Pleader  
: Mr.Gunasekaran for R4

ORDER

Mrs.Srimathi, learned Special Government Pleader, takes notice on behalf of the respondents 1, 2, 3 and 5 and Mr.P.Gunasekaran, learned counsel for R5.

2.By consent of both parties, the main Writ Petition itself is taken up for final disposal.

3.The petitioner is a retired District Educational Officer. When he was serving as Public Information Officer at Pudukottai, information was sought by one R.Rajendran, with regard to the implementation of G.O.(Ms).No.216, Finance Department, dated 22.03.1993. The petitioner herein while furnishing his reply under Right to Information Act, 2005, stated that the said Government Order is being implemented in all the schools in Pudukottai District. For furnishing such an information, charge memo was issued against the petitioner on 29.10.2013. The petitioner gave his explanation on 22.11.2013. Enquiry was conducted. The Enquiry Officer in his report dated 28.10.2014, gave his finding that the answer given by the petitioner cannot be said to be entirely incorrect. It is further suggested in the Enquiry report that the answer given by the petitioner could have been stated with a little more clarity. Therefore, charges was held as partly proved. The petitioner gave his further representation on 04.12.2014. However, the petitioner's defence was rejected and the first respondent passed order dated 19.07.2016, imposing the punishment of recovery of a sum of Rs.1,500/- per month for two years from the petitioner's pension. The petitioner filed Review Petition. Review Petition was also rejected on 24.03.2017. Challenging the same, this Writ Petition has been filed.

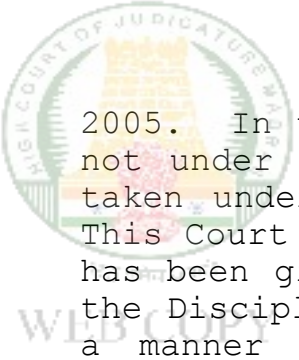
4.The petitioner was acting as a Public Information Officer. In that capacity, he furnished a reply in response to query under the Right to Information Act, 2005. Section 21 of the Right to Information Act, 2005, reads as follows:-

"21.No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder."

Section 22 of the Right to Information Act, 2005, reads as follows:-

22. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

5.If the petitioner was guilty of some lapse, then action should have been taken only under the Right to Information Act,



2005. In this case, action taken against the petitioner herein was not under the Right to Information Act, 2005. Instead action was taken under Tamil Nadu Civil Service (Discipline & Appeal) Rules. This Court is of the view that even in the enquiry report, a finding has been given in favour of the petitioner. It is not the case of the Disciplinary Authority that the petitioner conducted himself in a manner unbecoming of a Government servant. Only, if the Disciplinary Authority had taken the view that the petitioner did not act in good faith, then and then alone, disciplinary action could have been initiated. In the absence of making out such a case, the petitioner herein cannot be said to have committed any misconduct. In this view of the matter, the order impugned in the Writ Petition stands quashed.

6.The Writ Petition stands allowed accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government of Tamil Nadu,  
School Education Department,  
Secretariat, Chennai-9.
- 2.The Director of School Education,  
O/o the Directorate of School Education,  
DPI compound, Chennai-6.
- 3.The Joint Director of School Education (Personnel),  
O/o the Joint Director of School Education,  
DPI compound, Chennai-6.
- 4.The Chief Educational Officer,  
O/o.the Chief Educational Office,  
Ramanathapuram, Ramanathapuram District.

+1cc to M/S.P.Gunasekaran, Advocate SR.No. 52619  
+1cc to M/S.Ajmal Associates, Advocate SR.No. 52749  
+1cc to Special Government Pleader, SR.No. 52919

W.P. (MD) .No.1147 of 2018  
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JM/RSR/SAR 4/27.04.2018/3P/8C