



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2018

CORAM:

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 2697 of 2018

and

W.M.P. (MD). No. 2870 of 2018

B.Srinivasan

.. Petitioner

Vs.

1.The Chief Educational Officer,
O/o. the Chief Educational Office,
Tirunelveli.

2.The District Educational Officer,
Cheranmadevi,
Tirunelveli District,
Tirunelveli.

3.The Secretary,
Thiruthapathy Higher Secondary School,
Ambasamudram,
Tirunelveli District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to provide subsistence allowance from 09.08.2017 to the petitioner.

For Petitioner : Mr. T.Lajapathi Roy
Senior Counsel

For Respondent Nos.1 & 2: Mr. J.Gunaseelan Muthiah
Additional Government Pleader

For Respondent No.3 : Mr. S.Chellapandian

O R D E R

Heard the learned Counsel on either side.

2. The petitioner is employed as P.G. Assistant in the third respondent/School. Disciplinary action was initiated against the petitioner. He was also suspended from service on 09.06.2017. But till date the petitioner has not been paid even the subsistence allowance. Therefore, this writ petition has been filed.



3. The third respondent is admittedly a non-minority aided School. Therefore, an employee of such school cannot be placed under suspension for a period beyond four months. As per Section 22 of Tamil Nadu Recognised Private Schools (Regulation) Act, 1973, to dismiss such an employee, prior approval of the department is also required.

4. In this case the learned counsel for third respondent/Management would submit that the enquiry has been conducted and approval of the department has been sought for imposing the punishment of dismissal from services on the petitioner. Admittedly, till date such an approval is not forthcoming. Therefore, the respondents are bound to pay full salary for the period beyond four months from the date of suspension. The petitioner was suspended from the service on 09.06.2017. The four months period would expire on 09.10.2017. For this period of four months, subsistence allowance will have to be given to the petitioner. For the period thereafter, the petitioner is entitled to full pay. These are all the necessary mandate of the statute. The right conferred by the Statute to the petitioner cannot be taken away.

5. The learned counsel for the third respondent submits that they have the jurisdiction to initiate disciplinary action against the petitioner and that they have concluded proceedings speedily. The proposal was submitted in time. In fact the District Educational Officer has also forwarded the proposal to the Chief Educational Officer. There the matter is pending. According to the learned counsel for the third respondent on account of the delay on the part of the department in granting approval this writ petition has come to be filed.

6. Taking note of the submission, the first and second respondents are directed to pay subsistence allowance for the period for which the petitioner was not paid i.e., from 09.06.2017 for the first four months and full salary for the period subsequently. Entire arrears shall be paid on or before 15.03.2018.

7. This Writ petition is allowed accordingly. No costs. Consequently, W.M.P. (MD). No. 2870 of 2018 is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To:

1. The Chief Educational Officer,

<https://hcservices.ecourts.gov.in/hcservices/>
O/o. the Chief Educational Office,
Tirunelveli.



2.The District Educational Officer,
Cheranmadevi,
Tirunelveli District,
Tirunelveli.

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+1CC to Mr.S.Chellapandian, Advocate, SR.No. 51462
+1CC to Mr.T.Lajapathi Roy, Advocate, SR.No. 51409
+1CC to the Special Government Pleader SR.No.51630

W.P. (MD) No. 2697 of 2018

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AM/SV MMS/SAR 2/28.02.2018/3P/6C