



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A.(MD) Nos.1475 and 1476 of 2018
and
CMP(MD)Nos.10492 and 10493 of 2018

The Joint Director of School Education
(Personnel),
Directorate of School Education,
DPI Complex, College Road,
Chennai - 600 006.

The Chief Educational Officer,
Virudhunagar District,
Virudhunagar. ... Appellants in WA(MD)No.1475/2018

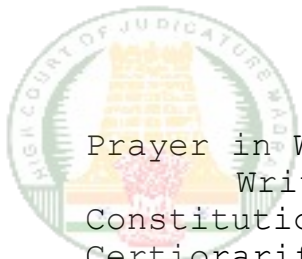
The Joint Director of School Education
(Personnel),
Directorate of School Education,
DPI Complex, College Road,
Chennai - 600 006.

The Chief Educational Officer,
Virudhunagar District,
Virudhunagar.

The Chief Educational Officer,
Nagapattinam Town & District.
... Appellants in WA(MD)No.1476/2018

T.Thiruselvan
vs.
... Respondent in both WAs.

Appeals filed under Clause 15 of Letters Patent against
the order passed in W.P.(MD)Nos.7023 and 14755 of 2017 dated
23.01.2018.



Prayer in WP(MD)No. 7023/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Certiorarified Mandamus or any other Writ, order or direction in the nature of Writ calling for the records relating to the disciplinary proceedings initiated under the charge memo dated 8.5.2015 in Na.Ka.No.081751/C3/E3/2014 of the first respondent and quash the same and issue a consequential direction to the respondents to grant promotion to the petitioner to the post of PG Assistant, English with retrospective effect from the date on which his immediate junior was promoted with all attendant, consequential, monetary and other benefits within a reasonable time period to be fixed by this Honble Court.

Prayer in WP(MD)No. 14755/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus directing the respondents to include the name of the petitioner in the seniority list drawn by the respondents for candidates working as BT Assistants (English) for promotion to the post of PG Assistant (English) and accordingly promote the petitioner to the said post with retrospective effect from the date on which his immediate junior was promoted with all attendant consequential monetary and other benefits within a reasonable time period.

For Appellants : Mrs.S.Srimathy
Special Government Pleader
in both appeals

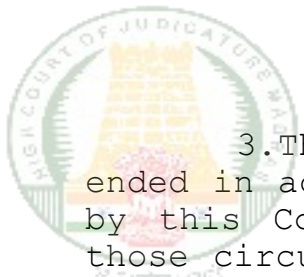
For Respondent : Mr.N.Dilipkumar
in both appeals

COMMON JUDGMENT

[Judgment of the Court was delivered by **M.M.SUNDRESH, J.**]

These two appeals have been preferred against the order of the learned Single Judge, who was pleased to quash the impugned charge memo with a direction to promote the respondent.

2.The respondent filed a petition for divorce in H.M.O.P.No.80 of 2012 on 18.08.2012. A complaint was given by an estranged wife on 20.09.2014 against the respondent and the same was registered in Crime No.785 of 2014. On the very same day, he was arrested along with his father. An order of suspension was passed on 26.11.2014, followed by the charge memo. The charge memo dated 08.05.2015 says that the respondent has involved in a criminal case. Thereafter, a writ petition was filed in W.P(MD) No.19716 of 2016 to expedite the enquiry. Accordingly, the order was passed on 17.10.2016 giving outer limit.



3.The criminal case registered against the respondent ended in acquittal on 01.07.2017. However, the time limit granted by this Court to conclude the charge memo got breached. Under those circumstances, the respondent filed the writ petitions. The learned Single Judge allowed the writ petitions on the ground that inasmuch as the appellants did not conclude the enquiry within the time, the consequence will have to be followed. Challenging the same, the present writ appeals have been filed.

4.Though we find that the reasoning of the learned Single Judge cannot be accepted in quashing the charge memo on the ground that the time limit given by this Court has not been complained, we find that even on merit, the respondent is intended to succeed. Giving a outer limit will not enure to the benefits of a delinquent officer. It is only a mere direction to conclude the proceedings and therefore, it cannot be construed to be one passed on merit. Secondly, it has to be seen as to who is responsible for the delay. In any case, the delay *per se* cannot be a ground, when a direction is issued to complete the proceedings within the specified time. At the best, such non compliance will not enure to the benefit of the delinquent officer. The judgment of the Division Bench relied upon by the learned Single Judge has been dealt with by the subsequent Division Bench and the aforesaid position has been clarified.

5.However, we find force in the submission made by the learned counsel appearing for the respondent. Nothing is available as on today. Now criminal case has been ended in acquittal. For registering the FIR the respondent cannot be found fault with. It is only matrimonial dispute between an estranged wife and the respondent. Therefore, looking from any perspective, we are of the view that the order of the learned Single Judge will have to be sustained for the reason stated.

6.In such view of the matter, we do not find any merit in the writ appeals and the same are dismissed. No costs. Consequently, CMP(MD)Nos.10492 and 10493 of 2018 are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS-I)

TO

1.The Joint Director of School Education
(Personnel),

<https://hcservices.ecourts.gov.in/hcservices/>
Directorate of School Education,
DPI Complex, College Road,
Chennai - 600 006.



2. The Chief Educational Officer,
Virudhunagar District,
Virudhunagar.

3. The Chief Educational Officer,
Nagapattinam Town & District.

+2 CC To MR.N.DILIP KUMAR, Advocate SR. NO. 92276 & 92275
+1 CC TO The Special Government Pleader SR.NO. 92573

W.A.(MD) Nos.1475 and 1476 of 2018
26.10.2018

MJ

TR/RSK/SAR-I(12.11.2018)4P 7C