



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.10.2018

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A.(MD).No.1616 of 2016

S.Andi

...Petitioner / Appellant

Vs.

1.The Joint Director of Elementary Education,
(Administration)
Office of Director of Elementary Education,
Chennai.

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

...Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letter Patent, against the order passed by this Court in W.P.(MD).No.7754 of 2016 dated 21.04.2016.

Prayer in WP(MD). 7754/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned order of the 2nd respondent in Na.Ka.No.3404/Aa5/2012, dated 10.04.2015 and consequential Impugned order on Appeal in Na.Ka.No.14524/D4/2015 dated 01.02.2016 passed by the 1st respondent and quash the same and consequently direct the respondents to reinstate the petitioner in service with all service benefits.

For Appellant : Mr.S.Andi, Party-in-person

For Respondent: Mrs.S.Srimathi

Special Government Pleader

JUDGMENT

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

This writ appeal is preferred against the order of this Court in W.P.(MD).No.7754 of 2016 dated 21.04.2016.

<https://hcservices.ecourts.gov.in/hcservices/>

2.While the appellant was working as a Secondary Grade Teacher

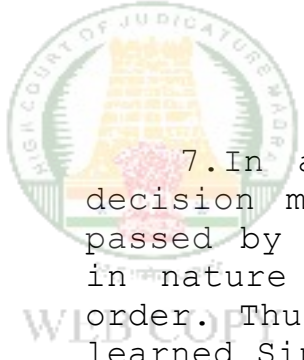
of Municipal Middle School in Ward No.13, Thenkasi Taluk, complaints were received against him to the effect that he involved in abusing the girl students and he misbehaved with them.

3. Pursuant to the complaint received, the appellant was proceeded with departmentally as well as criminally. The criminal Court acquitted the appellant giving benefit of doubt. In the departmental enquiry, the disciplinary authority found that the charges were proved against him and this was done based upon the exhaustive enquiry report given by the Enquiry Officer and the appeal filed by the appellant was also rejected. A writ petition was also filed by the appellant challenging the aforesaid departmental proceedings. The learned Single Judge, by a reasoned order dismissed the writ petition and hence, the present appeal has been filed.

4. The appellant, who appears before us as party-in-person, would submit that he has been acquitted from the criminal case. There are contrary stands taken by the student and the students have been tutored and the appellant was not permitted to cross-examine the departmental witness viz., the student. Therefore, the impugned order will have to be set aside. However, we do not find any merit in this appeal.

5. The law is quite settled that acquittal in criminal case will not act as a bar for departmental proceedings. Perusal of the enquiry report would reveal that it was given after exhaustively considering the evidence available on record, there is nothing wrong with the Enquiry Officer talking to the young girl students in 5th and 6th standards to tell the truth. It is only an endeavor to find out the truth. Just because, they gave letters contrary to the earlier submission made, the subsequent one given cannot be discarded. Admittedly, the students are girl students and their names are also mentioned. Therefore, the disciplinary authority was right in holding that the letters of the students were apparently at his behest of their parents as they must have believed that they might affect their future.

6. The very same students before the Enquiry Officer gave a clear and correct picture. It is not as if the Enquiry Officer was inimically disposed of the appeal. What is required in the departmental proceedings is preponderance of possibilities. Though the appellant has contended that the charges are personally motivated, there was absolutely no material to substantiate it. The appellant did not ask for cross-examination. Therefore, it is too late in the day for him to contend that he was not given an opportunity. The young students cannot have any axe to grind against the appellant. After all they were very poor and the appellant was their Teacher. Therefore, considering the dominant position, it would be impossible to accept the submission of the appellant that they intentionally gave their statements.



7. In a departmental proceedings, we are concerned with the decision making process. We do not find any error in the order passed by the learned Single Judge. The charges are very serious in nature and the disciplinary authority has passed a speaking order. Thus, we do not find any error in the order passed by the learned Single Judge warranting any interference.

8. In the result, this Writ Appeal stands dismissed. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS-I)

To

1. The Joint Director of Elementary Education,
(Administration)
Office of Director of Elementary Education,
Chennai.

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

+ 1 CC TO MR.S.ANDI, PARTY-IN-PERSON, IN SR NO.90675
+ 1 CC TO SPECIAL GOVERNMENT PLEADER, IN SR NO.90278

NS

BU/SKN/SAR-1 :13.11.2018 : 3P/5C

W.A. (MD) .No.1616 of 2016
10.10.2018