



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2018

C O R A M

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD)No.17911 of 2018

and

W.M.P.(MD)No.15787 of 2018

S.Santhana Krishnan

... Petitioner

Vs.

1.The District Education Officer,
Pattukottai,
Thanjavur District.

2.Kader Moideen Boys High School,
Athirampattinam,
Pattukottai,
Thanjavur District,
Rep. by its Secretary.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the 2nd respondent in Na.Ka.No.87/2018 dated 30.07.2018 and quash the same as illegal and consequently to direct the second respondent to allow me to sign the attendance and peacefully work in the second respondent school and thereby render justice.

For Petitioner : Mr.M.Jerin Mathew

For R1 : Mr.S.Srimathy
Special Government Pleader

For R2 : Mr.R.S.Prabhu

O R D E R

The petitioner has come forward with the present writ petition to quash the impugned proceedings of the second respondent dated 30.07.2018 as illegal and consequently to direct the second respondent to allow the petitioner to sign the attendance and work peacefully in the second respondent school.



2.It is the case of the petitioner that he is working as waterman in the second respondent school for the past 24 years. On 19.06.2018 the newly elected Secretary of the second respondent school directed the petitioner to work in the library belonging to the second respondent. Since the nature of work and duty in the library section is completely new and distinct to his ordinary work and since it was difficult the petitioner to manage, he reported and continued his duty in the second respondent school. Even though the petitioner was prevented from signing in the attendance, he marked his attendance in biometric system. While so, the petitioner was issued with a charge memo on 26.06.2018 by the second respondent on the ground that he was absented from the school without any prior intimation. Challenging the same, the petitioner has filed the present writ petition before this Court.

3.The petitioner was asked to give reply to the said charge memo within a period of seven days. The petitioner has submitted his explanation on 30.06.2018. After receiving the said reply, the management was silent and by proceedings dated 30.07.2018, the petitioner was asked to give explanation within a period of three days as if why the petitioner should not be removed from service. He submitted his explanation on 31.07.2018. It is the contention of the petitioner that the punishment has already been predetermined and the enquiry is going to be only as an eye wash and no justice is going to be rendered to the petitioner.

4.A reading of a entire documents produced by the petitioner and the respondents would clearly show that the petitioner is said to be a habitual offender in committing misconduct. Leaving the issues open, the Court cannot accept the contentions of the respondent that the present memo is a second show cause notice. Admittedly the petitioner was asked to submit his explanation. As the punishment is also proposed in the said charge memo, this Court deems it fit to interfere with the charge memo. However, liberty is given to the respondent to issue a fresh charge memo and proceed with the enquiry, if so advised. The petitioner is expected to participate in the enquiry, if any enquiry proceedings are conducted by the respondent on day-to-day basis without adjourning the matter beyond three working days at any point of time.

5.Even though the respondent would submit that there are several misconduct committed by the petitioner and for which separate proceedings are going to take place, this Court is not inclined to comment on those aspects, which are not the subject matter of the present writ petition. If any proceedings are initiated, the Court expects the petitioner to participate in the same and approach the appropriate forum such only after final orders are passed, if he is aggrieved by the said order.



6. This Writ Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is also closed.

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Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-IV)

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To

The District Education Officer,
Pattukottai,
Thanjavur District.

+1cc to Mr. M. Jerin Mathew, Advocate in SR No. 85300
+1cc to Mr. M. R. S. Prabhu, Advocate in SR No. 84580
+1cc to The spl Government Pleader, SR No. 84731

W.P. (MD) No. 17911 of 2018

NM/SKN/SAR IV/12.11.18/3P/5C.