



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2018

CORAM:

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THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) Nos.10320, 6063 of 2017 and 5458 of 2018
and

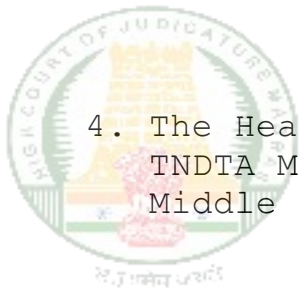
W.M.P. (MD) Nos.7898 to 7900, 11220, 4783,
6643 of 2017 and 5387 of 2018

R.Chitra Devi ... Petitioner in all petitions

-Vs-

1. The Correspondent,
TNDTA Manickavasagam Memorial Primary &
Middle School, Sawyerpuram-628 251,
Thoothukudi.
2. The Headmaster,
TNDTA Manickavasagam Memorial Priamry &
Middle School, Sawyerpuram, Thoothukudi.
3. The District Elementary Educational Officer,
Thoothukudi District, Thoothukudi.
4. The Manager,
CSI Thoothukudi Nazareth Diocese,
Thoothukudi.
..Respondents in W.P.(MD)Nos.10320 of 2017
and 5458 of 2018

1. The District Elementary Educational Officer,
Thoothukudi District, Thoothukudi.
2. The Manager,
CSI Thoothukudi Nazareth Diocese,
Thoothukudi.
3. The Correspondent,
TNDTA Manickavasagam Memorial Primary &
Middle School, Sawyerpuram-628 251,
Thoothukudi.



4. The Headmaster,
TNDTA Manickavasagam Memorial Priamry &
Middle School, Sawyerpuram, Thoothukudi.

.. Respondents in W.P.(MD)No.6063 of 2017

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PRAYER in W.P.(MD)No.10320 of 2017 :Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 1st respondent dated 25.04.2017 being the Charge Memo against the respondent and the Consequent Impugned Order dated 10.05.2017 appointing an Enquiry Officer and quash the same and further directing the respondents to forthwith disburse the petitioner's arrears of the petitioner's salary and forward the petitioner's pension proposals and pay the pension.

PRAYER in W.P.(MD)No.6063 of 2017 :Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records relating to the proceedings of the impugned order suspending the petitioner from her service dated 21.03.2017 on the file of the 3rd respondent and quash the same.

PRAYER in W.P.(MD)No.5458 of 2018 :Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to permit the petitioner to continue the petitioner's duty as Sewing teacher in the 2nd respondent school and pay the monthly salary of the petitioner.

For Petitioner : Mr.G.Prabhu Rajadurai
(for all petitions)
For RR1, 2 and 4 : Mr.T.A.Ebenezer
For R3 : Mr.M.Jeyakumar
Additional Government Pleader
(for W.P.(MD)Nos.10320 of 2017
and 5458 of 2018)

For R2 to 4 : Mr.T.A.Ebenezer
For R1 : Mr.M.Jeyakumar
Additional Government Pleader
(for W.P.(MD)No.6063 of 2017)

COMMON ORDER

One R.Chitra Devi is the writ petitioner in all these writ petitions. She was appointed as Sewing Teacher in TNDTA Manikavasagam Memorial Primary and Middle School, Sawyerpuram-628 25100. She reached the age of superannuation on 30.01.2017. She was suspended from service on 21.03.2017. This was followed by issuance of a charge memo dated 25.04.2017. By an



order dated 29.04.2017, the petitioner was not allowed to retire from service. All these orders are under challenge in these writ petitions.

2.It is not in dispute that the institution in which the petitioner was appointed is an aided private school. It is therefore covered by the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and the rules framed thereunder. The charge memo has been issued in respect of a cause of action that arose 18 years earlier. The charge memo alleges that the writ petitioner was working as a part time noon meal organizer between 03.04.1987 and 24.03.1999 and during the relevant period she was also working as part time vocational instructor in another private school. The charge framed against the writ petitioner is that during the very same time the writ petitioner was employed in two government institutions and receiving government pay.

3.The writ petitioner became an employee of the second respondent school on 18.04.2000. The cause of action set out in the charge memo arose prior to the said appointment of the writ petitioner in the second respondent School. Therefore, on the very face of it, the second respondent cannot have any grievance with regard to the conduct of the writ petitioner. That apart as rightly pointed out by Mr.Prabhu Rajadurai, learned counsel, for the petitioner, the Management can take action against the writ petitioner only if the petitioner's conduct was violative of the code of conduct set out in annexure-II of Tamil Nadu Recognized Private School (Regulation) Rules, 1974. The conduct attributed to the writ petitioner cannot be said to be violative of any of the provisions set out in the code of conduct. Therefore, the charge memo issued against the writ petitioner is liable to be quashed as being violative of section 21 of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973

4.As rightly contended by the learned counsel appearing for the petitioner, the order of suspension can be passed only when an enquiry into the gross misconduct, within the meaning of Code of Conduct is contemplated. In this case, the the acts attributed to the writ petitioner have been found not violative of the Code of Conduct. Therefore, since there is no misconduct committed by the petitioner, the suspension order made against the petitioner is liable to be quashed.

5.In view of the quashing of the order of suspension, the impugned order dated 29.04.2017, whereby, the petitioner was not allowed to retire but retained in service is also quashed.

6.The petitioner's retiral benefits shall be disbursed of six weeks from the date of receipt of copy of this order. Necessary proposal shall be submitted by the management to the department within a period of four weeks. The



department shall sanction the payment of pension and other benefits to the petitioner within a period of four weeks thereafter.

7. All these Writ Petitions are allowed, accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The District Elementary Educational Officer,
Thoothukudi District,
Thoothukudi.

+ 1 cc TO Mr.G.Prabhu Rajadurai , Advocate in SR No. 57762
+ 3 ccs TO Mr.T.A.Ebenezer , Advocate in SR No. 57621, 57619, 57618
+ 1 cc TO The Special Government Pleader in SR No. 58462

ta

AE/SKN RSK/SAR1/04.07.2018/4P/7C

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and 5458 of 2018
23.03.2018**