



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) .No.24147 of 2017

and

W.M.P. (MD) No.20267 of 2017

Padmanaban

... Petitioner

Vs.

1. The Director of Elementary Education,
Directorate of Elementary Education,
Chennai - 600 005.
2. The District Elementary Officer,
District Elementary Education Office,
Tirunelveli.
3. The Additional Assistant
Elementary Education Officer,
Sankarankovil,
Tirunelveli District.
4. The Secretary,
24 Manai Telugu Chettiar Primary School,
Sanakarankovil,
Tirunelveli District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned orders passed in Na.Ka.No.992/A4/2016, dated 29.11.2016 and Na.Ka. No.994/A2/2016, dated 16.12.2016 by respondents 3 and 4 and quash the both and consequently directing respondents 2 to 4 to treat the petitioner suspension period from 01.03.2016 to 13.11.2016 as duty period and to direct the respondents to pay the consequential benefits for that period.

For Petitioner	: Mr.R.Murugappan
For R-1 to R-3	: Mr.J.Gunaseelan Muthiah, Additional Government Pleader.
For R-4	: Mr.J.Senthilkumar

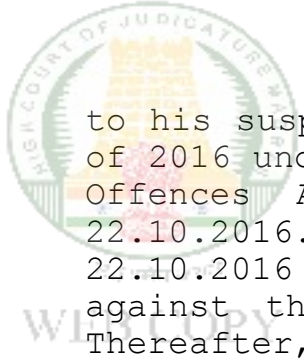
ORDER

Heard the learned counsel on either side.

2. By consent of both parties, the main Writ petition itself is taken up for final disposal at the stage of admission.

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

3. The petitioner joined the fourth respondent school as a Secondary Grade teacher. He was suspended on 01.03.2016. What led



to his suspension was registration of a criminal case in Crime No.2 of 2016 under Section 9(7) of the Protection of Children from Sexual Offences Act, 2012. The prosecution ended in acquittal on 22.10.2016. The Mahalir Court, Tirunelveli, by Judgment dated 22.10.2016 in Special Case No.67 of 2016 held that the charges against the petitioner were not proved beyond reasonable doubt. Thereafter, the petitioner's suspension was revoked and he was reinstated on 14.11.2016. The period of suspension was treated as leave period. This treatment of the said period of suspension as leave period is challenged in this Writ petition and the petitioner wants the said period from 01.03.2016 to 13.11.2016 to be treated as duty period. The primary reason for making such request was that the petitioner was not issued with any charge memo till date.

4. This Court records its displeasure over the conduct of the Department as well as the Management. The allegations made against the petitioner are very serious. The petitioner is alleged to have indulged in sexual misconduct with young children aged between 7 to 10 years. Of course before the criminal Court, no witness appeared to have supported the prosecution case. But then, the Management cannot remain a mute spectator.

5. It is well settled that notwithstanding acquittal in the criminal case, the employer can initiate departmental action. Considering the exceptional circumstances of this case, this Court is of the view that the Management must be directed to initiate disciplinary action against the petitioner herein. The first respondent is directed to monitor the compliance of this order.

6. In matters involving the safety of children, the authorities are bound to keep an active watch. The respondents appeared to have treated the entire issue as a criminal case and nothing else. They did not appear to have kept the safety of the children in mind at all. That is why, this Court in exercise of its discretionary jurisdiction under Article 226 of the Constitution of India is dismissing this Writ petition.

7. With these directions, the Writ petition stands dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS-II)

To

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

1. The Director of Elementary Education,
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Chennai - 600 005.

2. The District Elementary Officer,
District Elementary Education Office,
Tirunelveli.

3. The Additional Assistant
Elementary Education Officer,
Sankarankovil,
Tirunelveli District.

+1cc to Spl.Government Pleader Sr.No.51627

PMU

VB/SKN/RSK/SAR2/27.07.2018/3P/5C

ORDER MADE IN
W.P.(MD).No.24147 of 2017 and
W.M.P.(MD)No.20267 of 2017
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