



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2018

CORAM :

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P(MD)No.7023 & 14755 of 2017
and

WMP(MD)Nos.5547, 11588, 11589 & 16930 of 2017

T.Thiruselvan

... Petitioner
in both writ petitions

Vs.

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

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

...1 & 2 respondents in
WP(MD)No.7023 of 2017

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

...3rd respondent in
WP(MD)No.14755 of 2017

Prayer in WP(MD)No.7023 of 2017 : This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the disciplinary proceedings initiated under the charge memo dated 08.05.2015 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.

Prayer in WP(MD)No.14755 of 2017 : This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to include the name of the petitioner in the seniority list drawn by the respondents for candidates working as the 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 time period.



For Petitioner
in both writ petitions : Mr.N.Dilip Kumar

For Respondents
in both writ petitions : Mrs.S.Srimathy,
Special Government Pleader

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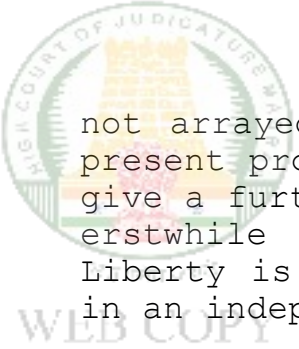
ORDER

The writ petitioner is working as a B.T.Assistant in English. He was suspended from service following his arrest and detention in a criminal case lodged at the instance of his wife. The Joint Director of School Education (Personnel), Chennai issued charge memo dated 08.05.2015 in this regard. The writ petitioner herein filed WP(MD)No.19710 of 2016 for directing the authorities to conclude the disciplinary proceedings initiated against him. This Court by order dated 17.10.2016 directed the authorities to furnish the documents sought for by the writ petitioner and conclude the enquiry within a period of six weeks, thereafter.

2.According to the writ petitioner, the said outer time limit fixed by this Court on 17.10.2016 in WP(MD)No.19710 of 2016 was expired by 31.12.2016. The Hon'ble Division Bench of this Court in the decision reported in (2010) 3 MLJ 625 (*State of Tamil Nadu vs. T.Ranganathan*) held that when once this Court fixed an outer time limit to conclude the enquiry and pass final orders, the parties to the proceedings are bound to strictly adhere to the time limit. Of course, it is open to the parties concerned to move the very same Court seeking extension of time. In this case, no such extension of time was sought for. The Hon'ble Division Bench of this Court held that once the said time limit expired and there was no extension of time, the disciplinary authority would not have the jurisdiction to proceed with the enquiry.

3.In this case, therefore, the disciplinary action initiated against the writ petitioner must be deemed to have been terminated by 31.12.2016. The main prayer in WP(MD)No.7023 of 2017 is to quash the charge memo dated 08.05.2015. This Court is of the view that since a finding had already been rendered that the disciplinary authority would have lost the jurisdiction to proceed with the enquiry and that the enquiry itself stood terminated, there is no need to formally quash the said charge memo.

4.It is clear that the writ petitioner is not facing any disciplinary proceedings on or after 01.01.2017 onwards. Since the proceedings against the writ petitioner have not ended to prejudice to the writ petitioner but got terminated on account of the failure on the part of the authority to adhere to the time limit stipulated by this Court, the writ petitioner would be entitled to be promoted to the post of P.G.Assistant in English. The writ petitioner had



not arrayed his erstwhile immediate junior as a party to the present proceedings. Therefore, this Court is not in a position to give a further direction to place the writ petitioner above the said erstwhile immediate junior. The said issues are left open. Liberty is given to the writ petitioner to agitate the said rights in an independent proceeding.

5. Both the writ petitions are allowed. The Joint Director of School Education (Personnel), Chennai is directed to issue appropriate proceedings with regard to the promotion of the writ petitioner within six weeks from today. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (C.O)

/True Copy/

Sub-Assistant Registrar

To

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

+One cc to Mr. N. Dilipkumar, Advocate, SR>No.43353

+One cc to The Special Government Pleader, SR.No.44353

skm
RL/6C/3P/SV/MMS/SAR1/15/2/2018

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