



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.04.2018

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) .Nos.20085 to 20087 of 2013
and
M.P. (MD) Nos.1, 1 and 1 of 2013

Vasantha	: Petitioner in W.P. (MD) No.20085/13
Meenalochini	: Petitioner in W.P. (MD) No.20086/13
K.Dhanalakshmi	: Petitioner in W.P. (MD) No.20087/13

Vs.

1. The State of Tamil Nadu rep. by its
Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
D.P.I. Campus, College Road,
Nungambakkam,
Chennai.
3. The Chief Educational Officer,
Collectorate, Sivagangai.
4. The District Educational Officer,
Meenakshi Complex,
Devakottai.
5. The Secretary,
Zamindar Street High School,
Devakottai - 630 302.

.. Respondents in all petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writs of Certiorari and Mandamus, calling for the records relating to the impugned show cause notices dated 28.07.2006 issued by the fifth respondent in his proceedings in Na.Ka.No.3, 4 and 4 of 2006 and the impugned final orders dated 17.08.2006, issued by the fifth respondent herein in his proceedings in Na.Ka.No.5, 6 and 7 of 2006 in W.P. (MD) Nos.20085 to 20087 of 2013 respectively and quash the same and consequently, direct the respondents 4 and 5 to disburse the entire arrears of



salary as deducted in pursuance of the impugned final order of punishment dated 17.08.2006.

For Petitioners : Mr.R.Thangapandian
For Respondents 1 to 4 : Mr.J.Gunaseelan Muthiah
Additional Government Pleader
For Respondent No.5 : Mr.AN.Ramanathan
(in all the petitions)

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COMMON ORDER

The common prayer sought for in these writ petitions, is as follows:

"Writ Petitions are filed praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned show cause notices dated 28.07.2006 issued by the fifth respondent in his proceedings in Na.Ka.No.3, 4 and 4 of 2006 and the impugned final orders dated 17.08.2006, issued by the fifth respondent herein in his proceedings in Na.Ka.No.5, 6 and 7 of 2006 in W.P.(MD)Nos.20085 to 20087 of 2013 respectively and quash the same and consequently, direct the respondents 4 and 5 to disburse the entire arrears of salary as deducted in pursuance of the impugned final order of punishment dated 17.08.2006."

2.Heard Mr.R.Thangapandian, learned Counsel appearing for the writ petitioners, Mr.AN.Ramanathan, learned Counsel, appearing for the fifth respondent school and Mr.J.Gunaseelan Muthiah, learned Additional Government Pleader appearing for the official respondents in all these writ petitions.

3.Since the facts are similar and the issues raised in these writ petitions by the respective petitioners are common, these three writ petitions were heard and disposed of by this common order.

4.The short facts which are required to be noticed for disposal of these writ petitions are as follows:

4.1.The petitioners were working as teachers at the fifth respondent school. It is the complaint of the writ petitioners that during the relevant point of time, the fifth respondent school has not disbursed the salary payable to the petitioners and in spite of their repeated request, the said salary has not been paid and it seems that they had issued complaint letters to the higher officials including the Educational Authorities as well as the Revenue Divisional Officer.

<https://hcservices.ecourts.gov.in/hcservices/> 4.2.It is the further case of the petitioners that having got annoyed with the said act of the petitioners, the fifth respondent school had initiated disciplinary action by issuing charges and



sought explanations.

4.3. It is the definite case of the petitioners that on receipt of the said charges, explanations had been given by the respective petitioners immediately. However, without considering the said explanations given by the petitioners, orders were passed by the fifth respondent school imposing a punishment of cut in increment for one year with cumulative effect for each of the petitioners. According to the petitioners, aggrieved over the said order of punishment inflicted on them by the fifth respondent school, they filed appeals before the third respondent, namely, the Chief Educational Officer. According to the petitioners, the said appeals have been filed by all the writ petitioners on 28.08.2006 to the Chief Educational Officer. However, the said appeals had not been disposed of, because of the alleged inaction on the part of the respondents. The petitioners' grievance is that their increment with cumulative effect since has been cut in for one year, they suffered with financial loss and therefore, they are before this Court.

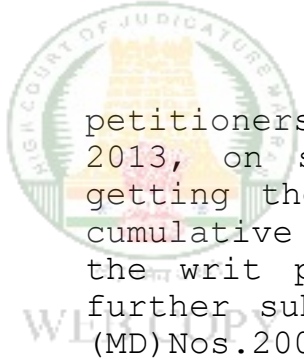
5. However, the learned Counsel appearing for the fifth respondent school submitted that the petitioners, on receipt of the charges, had not come forward to give any explanation in spite of the time for giving such explanations was extended at their request. Therefore, the fifth respondent school decided to pass final orders inflicting the said punishment on them, as against which, since the petitioners had not filed any appeal to the appellate authority, the question of considering their appeals, as they claim in these writ petitions does not arise.

6. Mr. J. Gunaseelan Muthiah, learned Additional Government Pleader appearing for the official respondents, by relying upon the averments made in the counter affidavit submits that under the provisions, especially, Section 23 of the Tamil Nadu Private Schools Regulation Act, r/w. the Rules made thereunder, if the teacher employed in a private school suffers with an order of dismissal / removal / reduction in rank or whose pay and allowances are cut in, they should file an appeal before the appellate authority, namely, the Joint Director of School Education (Secondary), Chennai. However, no such appeals were filed before the Joint Director of School Education, who is under the Director of School Education, the second respondent herein. Since no appeals have been filed by the petitioners, the occasion to consider their appeals as they have claimed in these writ petitions did not arise at any point of time. Therefore, the learned Additional Government Pleader would submit that these writ petitions are devoid of merits.

7. I have considered the said submissions made by the learned Counsel appearing for the parties.

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

8. It is the submission of the learned Counsel appearing for the



petitioners that in respect of the petitioner in W.P.(MD)No.20085 of 2013, on superannuation, he retired from service. However, for getting the financial benefit for one year cut in increment with cumulative effect, they are requesting that the prayer sought for in the writ petition can be considered. The learned counsel would further submit that insofar as other two writ petitions ie., W.P.(MD)Nos.20086 and 20087 of 2013 are concerned, though the respective petitioners are still working as teachers, the petitioner in W.P.(MD)No.20086 of 2013, has already been transferred to some other school, but the petitioner in W.P.(MD)No.20087 of 2013 is still working in the fifth respondent school.

9.In view of the said submission made by the learned counsel appearing for the parties, this Court, after having considered the respective claim made by the parties through their learned counsel appearing for them, is inclined to pass the following order:

9.1.The representations / appeals filed by the respective petitioners dated 28.08.2006 to the concerned Chief Educational Officer ie., the third respondent herein shall be forwarded to the appellate authority, namely, the Joint Director of School Education, (Secondary), Chennai. On receipt of such communication from the third respondent, the appellate authority ie., the Joint Director of School Education is directed to consider the same and pass orders on merits and in accordance with law, within a period of six weeks thereafter.

9.2.Since the learned Additional Government Pleader submits that no appeals have been received by the appellate authority and this has also been stated in the counter affidavit filed by the fourth respondent, the copy of the said appeals dated 28.08.2006 claimed to have been filed before the third respondent, namely, the Chief Educational Officer, shall be once again forwarded directly to the Joint Director of School Education, the appellate authority in these matters by the petitioners within a period of two weeks from the date of receipt of a copy of this order and on receipt of such appeals, the aforesaid direction given to the appellate authority ie., the Joint Director of School Education, shall be taken effect.

10.With these directions, the writ petitions are disposed of. However, in the circumstances of the case, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar



1. The Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 024.

2. The Director of School Education,
D.P.I. Campus, College Road,
Nungambakkam, Chennai.

3. The Chief Educational Officer,
Collectorate, Sivagangai.

4. The District Educational Officer,
Meenakshi Complex,
Devakottai.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 59453

+ 3 CC TO Mr.R.THANGAPANDIAN, ADVOCATE IN SR No. 59336 to 59338

+ 3 CC TO Mr.AN.RAMANATHAN, ADVOCATE IN SR No. 59601 to 59603

MR

TE/SV-MMS/SAR-3 : 23/05/2018 : 5P/12C

COMMON ORDER MADE IN
W.P. (MD) .Nos.20085 to 20087 of 2013
02.04.2018