

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2019

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.A.No.1003 of 2018
and
C.M.P.No.8510 of 2018

The Governing Body
rep.by the Correspondent,
St. Patricks' Anglo Indian Higher
Secondary School,
Gandhinagar,
Adyar,
Chennai- 600 020.

...Appellant/2nd Respondent

Vs.

1.T. Nagarajan ...1st respondent/Writ Petitioner

2.The Director of School Education,
Chennai - 600 006. ...2nd respondent/1st respondent

3.M. Ramamurthy ...3rd respondent/3rd respondent

Writ Appeal filed under Clause 15 of the Letter Patent
against the order dated 06.11.2017 passed by this Court in
W.P.No.26413 of 2007.

Prayer in W.P.No.26413 of 2007:

Writ Petition filed Under Article 226 of the Constitution of
India for issuance of a Writ of Certiorarified Mandamus to call
for the records made in the impugned dismissal order dated
29.07.2007 issued by the 2nd respondent pursuant to the impugned
exparte enquiry dated 18.07.2007 by the 3rd respondent and the
show cause notice dated 23.7.2007 and quash the same and to
direct the 2nd respondent to reinstate the petitioner with
backwages and all attendant benefits.

For Appellant : Mr.ARL. Sunbdaresan,
Senior Counsel
for Mr.R.Sunil Kumar

For Respondents : Mr.V. Ravi for R1

Mr.C. Munusamy,
Special Government Pleader for R2

R3- Served - No appearance

JUDGMENT

(Order of the Court was made by K.K.SASIDHARAN, J.,)

The appellant initiated disciplinary proceedings against the first respondent after issuing show cause notice. The Enquiry Officer appointed by the appellant submitted a report indicating that the charges were proved. Thereafter, by order dated 29.07.2007, the first respondent was terminated from service.

2.The order dated 29.07.2007 on the file of the management was challenged before the Writ Court in W.P.No.26413 of 2007. The learned Single Judge by order dated 06.11.2017 allowed the Writ Petition and a Mandamus was issued directing the management to reinstate the respondent into service. The said order is under challenge at the instance of the management.

3.The appeal was heard by us on an earlier occasion. After hearing the learned Senior Counsel for the appellant and the learned counsel for the first respondent, we have made a suggestion to settle the issue amicably.

4.Subsequently, after negotiation, the parties have arrived at a settlement.

5.When the Intra Court appeal is taken up today, the parties have filed a Joint Memorandum of Compromise dated 21.06.2019. The Memorandum reads thus:

JOINT MEMO OF COMPROMISE FILED BY THE APPELLANT AND THE FIRST RESPONDENT

1.The 1st respondent was working as a physical Education Teacher in the appellant school from 04.06.1990. Enquiry was conducted pursuant to a charge memo issued against the 1st respondent and he was found guilty of charges and was terminated from service on

29.07.2007.

2.The Writ Petition filed by the 1st respondent in W.P.No.26413 of 2007 was allowed by this Hon'ble Court by ordering the appellant to reinstate the 1st respondent with all the service and monetary benefits.

3.The appellant school had filed Writ Appeal in W.A.No.1003 of 2018 challenging the order passed in W.P.No.26413 of 2007.

4.Pending Writ Appeal the 1st respondent attained the age of superannuation on 04.06.2019. Now the appellant and the 1st respondent had entered into an amicable settlement. The terms of the settlement are as follows:

I.The appellant and the 1st respondent had agreed that the relief granted by Hon'ble Single Judge in W.P.No.26413 of 2007 shall be modified as reinstatement with Rs.12,50,000/- only towards back wages and all monetary benefits.

II.First respondent will be entitled for continuity of service to be counted for the purpose of pensionary benefits.

III.In addition, the appellant school had agreed that the 1st respondent is entitled for full pension and the appellant shall do all in its reach by sending appropriate proceedings to the concerned authority.

IV.The appellant school today paid the first respondent the said sum of Rs.12,50,000/- (Twelve lakh and fifty thousand only) by Cheque No.024038 dated 20.06.2019 drawn on Union Bank, St. Michaels Academy, Adayar, Chennai. The receipt of which is admitted by the first respondent.

V.Appellant shall not be liable for any further or other claims."

6.The appellant has paid a sum of Rs.12,50,000/- (Twelve lakh and fifty thousand only) to the first respondent by way of a Cheque dated 26.06.2019 and the same was received by the first respondent on acknowledgement.

7.The Management agreed to send the proposal for pension within a period of four weeks to the Government. We make it clear that in case the first respondent is entitled to any other benefits, such as encashment of earned leave, etc., such proposal shall also be sent by the Management to the Government.

8.The Intra Court appeal is disposed of in terms of the memorandum of settlement dated 21.06.2019. Consequently, connected Miscellaneous Petition is closed. No costs.

*The Xerox copy of the Joint
Memo of Compromise enclosed

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mps

To

The Director of School Education,
Chennai - 600 006.

+1cc to Mr.V.Ravi, Advocate Sr.51314
+1cc to the Government Pleader Sr.51701
+1cc to Mr.R.Sunil Kumar, Advocate Sr.52225 [27/08/2019]

W.A.No.1003 of 2018
and
C.M.P.No.8510 of 2018

vd[co]
srg 05/08/2019