

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.02.2019
CORAM
THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.3521 of 2018 and
W.M.P.No.4299 of 2018

D.Rita

...Petitioner

Vs

1.The District Elementary
Educational Officer,
Tiruvanamalai District.

2.The Assistant Elementary
Educational Officer,
Tiruvanamalai District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus, calling for the entire records relating of the impugned order passed by the first respondent in his proceedings No. B2/387/2018, dated 25.01.2018 and quash the same thereby direct the respondents to reinstate the petitioner with all the arrears of salary and attendant benefits.

For Petitioner : Mr.V.Jeevagiridharan

For Respondents: Mr.A.Rajaperumal
Additional Government Pleader

O R D E R

The order of suspension dated 25.01.2018, placing the writ petitioner under suspension with reference to the allegations of submitting fake Educational Certificate and misappropriation of Government funds in form of salary is under challenge in this present writ petition.

2. The writ petitioner was serving as the Headmaster of Panchayat Union Primary School and the serious allegation of misappropriation of the Government funds are noticed by the authorities competent. Thus, the disciplinary proceedings were initiated and the writ petitioner is placed under suspension. Challenging the said order of suspension, the writ petitioner states that the Government issued an amendment to the Discipline and Appeal rules in G.O.(Ms).No.29, Personnel and Administration Reforms Department dated 23.02.2012.

3. Accordingly, the Government issued an amendment to Rule 17 sub rule (e) in clause (1) is as follows:-

"(1) in sub-clause(i), for the expression "an enquiry into grave charges", the expression "a disciplinary proceedings" shall be substituted;

(2) for sub-clause(ii), the following sub-clause shall be substituted, namely;-

"(ii) a case against him in respect of any criminal offence is under investigation, inquiry or trial".

4. Relying on the said amendment, the learned counsel for the writ petitioner states that now the initiation of disciplinary proceedings alone shall be the ground to place an employee under suspension. Therefore, the present impugned order of suspension stating that "An inquiry into grave charges against the writ petitioner is untenable". In other words, the learned counsel for the petitioner states that in the impugned order of suspension, the language used is "An inquiry into grave charges against the writ petitioner is contemplated". However, the Government issued an amendment, stating that disciplinary proceedings alone shall be the ground for placing an employee under suspension.

5. Let us now examine the difference between the terms used in the amendment order issued by the Government in G.O.Ms.No.29. For the expression "an inquiry into grave charges", the expression "the disciplinary proceedings" shall be substituted. However, both the terms are akin to each other and there is no difference. An enquiry into grave charges, rather vague and initiation of disciplinary proceedings is a language used with clarity. The word "disciplinary proceedings" is substituted in order to cover all sort of allegations and therefore, the amendment was issued. Probably, the Government thought fit to substitute this language as "disciplinary proceedings," in view of the fact that the earlier language used "an enquiry into grave charges" are mostly taken undue advantage by the employees, who all are facing departmental proceedings and the suspension order. In order to make the language with clarity, the term "disciplinary proceedings" is substituted. As far as the present case is concerned, mere usage of language will not provide any ground for the writ petitioner to escape from the clutches of the departmental disciplinary proceedings. However, the term used cannot be said to be illegal.

6. The District Elementary Educational Officer, Thiruvannamalai District, while passing the impugned order has not taken note of the amendment issued by the Government in the said G.O.Ms.No.29 dated 23.02.2012. However, in the case of the writ petitioner also, an enquiry into grave charges are

contemplated and thus, there is no infirmity as such in respect of the impugned order. The Competent authorities, on initiation of the disciplinary proceedings against the employees must ensure that all such proceedings are concluded as earlier as possible and without causing any undue delay.

7. In view of the fact that the allegations are in relation to the misappropriation of the Public funds, this Court cannot show any leniency or otherwise. Misappropriation of funds is a serious allegation set out against the writ petitioner and therefore, the petitioner has to participate in the Departmental Disciplinary Proceedings and establish her innocence or otherwise by producing the documents and by adducing the evidences, if necessary. Contrarily, this Court cannot set aside the impugned order at this stage as the writ petitioner has to face the departmental disciplinary proceedings. The respondents are directed to continue the departmental proceedings without any delay and conclude the same by passing final orders as expeditiously as possible and without any further lapse of time.

8. This being principles to be followed, the writ petitioner has not established any acceptable ground for the purpose of quashing the impugned order of suspension.

9. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kak/kmm

To

1.The District Elementary
Educational Officer,
Tiruvanamalai District.

2.The Assistant Elementary
Educational Officer,
Tiruvanamalai District.

+lcc to Mr.V.Jeevagiridharan, Advocate, S.R.No. 11456

+lcc to the Government Pleader, S.R.No. 11848

W.P.No.3521 of 2018

KJI (CO)

GN(13/03/2019)