

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.05.2019

Coram

The Hon'ble Mr. Justice C.V.KARTHIKEYAN

W.P.No.14328 of 2019

and

WMP No.14388 of 2019

V.Venkatesan

... Petitioner

Vs

- 1.The Director of Elementary Education
DPI Campus, College Road,
Chennai - 600 006.
2. The Chief Educational Officer,
Krishnagiri District,
Krishnagiri

.... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue Writ of certiorari to call for the records relating to the impugned proceedings issued by the 1st respondent in Na.Ka.No.024429/14/2011, dated 01/04/2019 and to quash the same.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.K.Karthikeyan
Government Advocate

ORDER

The petitioner had earlier filed W.P. No.31478 of 2018 and by order dated 29.11.2018, this Court had granted the relief sought against the respondents to dispose of the appeal preferred by the petitioner, which was, dated 06.08.2018, within a period of eight weeks from the date of receipt of a copy of such order.

2. The background facts of the case are that the petitioner was initially appointed as Secondary Grade Teacher in Elementary Education in the year 1988. He was subsequently promoted and finally posted as Block Educational Officer in Krishnagiri District on 01.06.2018. There was an anonymous complaint preferred against the petitioner stating that he had acquired assets disproportionate to his known sources of

income. The Vigilance and Anti Corruption (V & AC) Department, Krishnagiri, however gave an opinion, that criminal prosecution need not be launched but rather disciplinary proceedings may be initiated. Accordingly, disciplinary proceedings were initiated. The charges were found proved. Thereafter, the disciplinary authority imposed a punishment of cut in the increment of five years. Claiming that was a major punishment, a further appeal was filed. No orders were passed by the Appellate Authority. That led to the filing of the earlier writ petition and a direction was given by this Court to dispose of the appeal within a period of eight weeks. The appeal had been disposed of, by the impugned order. It is the grievance of the learned counsel for the writ petitioner that the Appellate Authority had considered the grant of punishment of stoppage of increment for a period of five years with cumulative effect as a minor punishment and therefore, had issued a show cause notice to the writ petitioner stating as to why a major punishment of termination from service need not be imposed.

3. The learned counsel for the writ petitioner stated that the impugned order is bad on the ground of that the imposition of the punishment by the disciplinary authority of stoppage of increment for a period of five years with cumulative effect is itself a major punishment and not a minor punishment and consequently, the order cannot stand scrutiny of the Court. However in the order itself, the Appellate Authority has stated that within a period of 15 days from the date of receipt of the impugned order, an explanation can be given. The petitioner is granted time till 15.06.2019 to give further representation to the impugned order. In the representation, he may point out that the earlier punishment imposed regarding stoppage of increment for five years with cumulative effect is itself a major punishment and that the observation by the Appellate Authority that it is a minor punishment is not in consonance with the rules. When such a representation is made, before imposing any further major punishment, there is an onus cast on the Appellate Authority to answer this aspect as to why, when already a major punishment had been granted, that was over looked and drastic punishment of dismissal from service is contemplated.

4. With these observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

vsi2/kmm

To

1.The Director of Elementary Education
DPI Campus, College Road,
Chennai - 600 006.

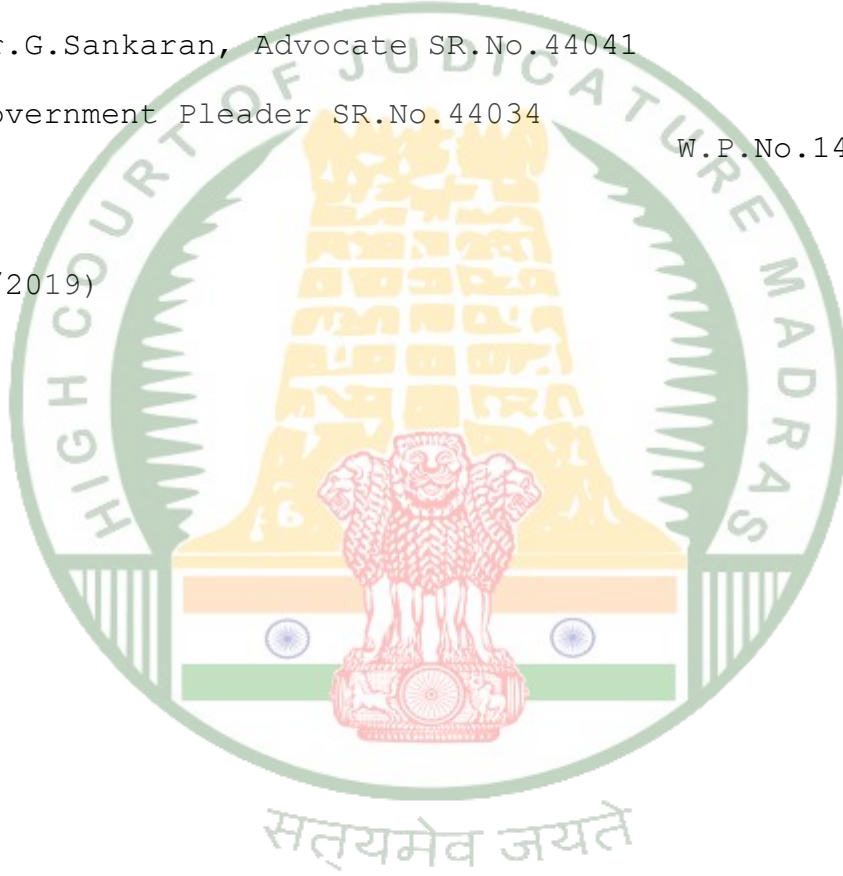
2. The Chief Educational Officer,
Krishnagiri District,
Krishnagiri

+1cc to Mr.G.Sankaran, Advocate SR.No.44041

+1cc to Government Pleader SR.No.44034

W.P.No.14328 of 2019

NMI (CO)
GMY (22/05/2019)



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