

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2019

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.A.No.3270 of 2019

G.Sreenivasa Rao

... Appellant/Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 083.

2. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.

3. The Chief Educational Officer,
Panagal Building,
Saidapet, Chennai - 600 015.

4. The District Educational Officer,
Central Chennai,
Saidapet, Chennai - 600 015.

5. Thiru.K.S.V.Prasad,
The Correspondent,
Kesari Higher Secondary School,
Old No.9, New No.17/1, Royapettah High Road,
3rd Street, Mylapore,
Chennai - 600 004.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the Order dated 08.04.2019 made in WP.No.17659 of 2018.

WP.No.17659 of 2018 :- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 5th Respondent in No.Nil dated 28/05/2016 served on 30.05.2016 and subsequent order of suspension No. Nil dated 31.05.2016 and to QUASH the same and consequently direct the Respondents retire the petitioner as on

the date of Petitioner on 31/05/2016 and to settle the retirement benefits to the petitioner along with service benefits including arrears of increment pay commission recommendations etc as well as Regular pension along with interest for the delay in payment within a time frame to be fixed by this Honourable court.

For Appellant : Mr.G.Sankaran

For Respondents: Mr.K.Karthikeyan (for R1 to R4)
Government Advocate.

J U D G E M E N T

(Order of the Court was delivered by S.MANIKUMAR, J)

Being aggrieved by the proceedings of the Correspondent, Kesari Higher Secondary School, Chennai dated 28.05.2016 and 31.05.2016 by which charges have been framed for alleged misconduct, WP No.17659 of 2018 has been filed for a writ of certiorarified mandmaus, to quash the abovesaid proceedings and consequently, to direct the respondents to allow the petitioner, to retire from service, as on 31.05.2016 and to settle the retirement benefits, along with service benefits including arrears, Pay Commission recommendations etc., as well as Regular Pension along with interest for the delay in payment.

2. Material on record discloses that recording the submission of the learned Senior Counsel for the respondent management that during the pendency of the writ petition, departmental proceedings were continued and a final order dated 04.08.2018, removing the appellant from service has been passed, and by observing that it is left open to the appellant to approach the competent Appellate Authority for redressal of grievances, if any, against the final order passed in the departmental disciplinary proceedings, writ Court vide order dated 08.04.2019, dismissed the writ petition, as infructuous. Being aggrieved, instant writ appeal is filed.

3. Though Mr.G.Sankaran, learned counsel for the appellant submitted that no enquiry was conducted, that the alleged order of removal dated 04.08.2018 has not been served and that therefore, there is violation of principles of natural justice and further submitted that order of removal cannot be passed without a prior approval of the competent authority, under Section 22 of the Tamil Nadu Recognised Private School (Regulation) Act, 1973 and Rule 17 of the Tamil Nadu Recognised Private School (Regulation) Rules, 1974, we are not inclined to interfere with the order impugned in this appeal, for the reason that if no enquiry was conducted and an order of removal has been passed without the prior approval as provided under the

statutory provisions, as rightly observed by the writ Court, remedy lies before the appellate authority.

4. Going through the grounds of challenge, we deem it fit to state that issuance of charge memo is the initiation of disciplinary proceedings, out come is the order of removal. There are two different and distinct proceedings arising out of departmental proceedings. In the writ petition filed challenging the charge memo and suspension, grounds cannot be raised assailing the correctness of the removal. As initiation of disciplinary proceedings by the way of issuance of charge memo has resulted in imposition of punishment of removal, contentions of Mr.G.Sankaran, learned counsel for the appellant, cannot be countenanced. As rightly observed by the writ Court, when punishment has been imposed, challenge to the charge memo becomes infructuous and accordingly, writ Court has dismissed WP No.17659 of 2018. There are no valid grounds to interfere in the writ appeal. Hence, Writ Appeal is dismissed. Observation of the writ Court would remain intact. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

ars

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
State of Tamil Nadu, School Education Department,
Secretariat, Fort St. George,
Chennai - 600 083.

2. The Director of School Education,
DPI Campus, College Road, Chennai - 600 006.

3. The Chief Educational Officer,
Panagal Building, Saidapet, Chennai - 600 015.

4. The District Educational Officer,
Central Chennai, Saidapet, Chennai - 600 015.

+lcc to Mr.G.Sankaran, Advocate, SR.No.83412

+lcc to the Govt.Pleader, Vide Sr.No.83645

W.A.No.3270 of 2019

Kak(18/11/2019)