

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.08.2019

CORAM

THE HON'BLE MR. JUSTICE V.PARTHIBAN

W.P.No.24305 of 2019
and
WMP.Nos.24061 & 24064 of 2019

T.John Baptist

...Petitioner

Vs.

1.The Director of Adi-Dravidar Welfare
Chepauk, Chennai - 600 005.

2.The District Adi-Dravidar Welfare Officer,
Adi-Dravidar Welfare Office,
Villupuram District, Villupuram.

3.The Special Tahsildar (A.D.W.)
Adi-Dravidar & Tribal Welfare (Enquiry Officer)
Tindivanam - 604 001.
Villupuram District.

...Respondents

Prayer: Petition filed under Article 226 of Constitution of India, for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd respondent vide Proceeding Na.Ka.No.39384/2001/M3 dated 21.04.2019 and quash the same as illegal and consequentially direct the 2nd and 3rd respondents to promote the petitioner to the post of Elementary School Headmaster and pay all the service benefits to the petitioner.

For Petitioner : Mr.K.Venkadeshnan

For Respondents : Mr.J.Pothiraj
Special Government Pleader

ORDER

The petitioner is working as Middle School Teacher and was issued with a charge memorandum dated 16.05.2003. The charge memorandum contained six articles of charges against him. After obtaining explanation from him on 27.06.2003, an enquiry was conducted against the petitioner. The enquiry concluded and a

report was submitted holding that all the charges were proved against him. Finally, the disciplinary authority viz., the 2nd respondent herein by his proceedings dated 21.04.2019 imposed a penalty of cancellation of three increments granted to him. The said punishment imposed by the 2nd respondent is the subject matter of the challenge in the present writ petition.

2.The learned counsel for the petitioner would submit that the order of the 2nd respondent was passed in violation of the principles of natural justice, as no enquiry report was furnished to the petitioner. Moreover, the punishment imposed on the petitioner viz., cancellation of three increments granted by him, was not one of the punishments contemplated in the disciplinary rules. Therefore, on this ground alone, the impugned order is liable to be struck down.

3.This Court is unable to appreciate as to how the petitioner directly approached this Court against the order passed by the 2nd respondent, when an effective appeal remedy is available before the 1st respondent. When an effective appeal remedy is available, whatever the objections the petitioner have in this case, against the orders of the disciplinary authority, the same objections can be raised in his appeal before the 1st respondent. Instead of filing a statutory appeal, the petitioner has chosen to invoke the extraordinary jurisdiction of this Court for the relief prayed for, which cannot be entertained.

4.At this, the learned counsel would submit that in view of the violation of the principles natural justice and also the punishment imposed on the petitioner, which is not contemplated in the rules, the petitioner has to take recourse to this Court's jurisdiction directly and he would therefore submit that the writ petition is maintainable.

5.This Court is unable to appreciate the arguments for the simple reason that the alternative remedy provided in the Act is an effective appellate remedy, which has to be exhausted in all circumstances and it is always open to the appellate authority to appreciate the lacuna in the conduct of the enquiry, the procedure adopted and also the nature of punishment imposed on the petitioner. The appellate authority is the best person to assess the contentions on behalf of the petitioner in regard to the procedure, violation of principles of natural justice and the proportionality of the punishment etc. Therefore, it is in the interest of the petitioner that he has to exhaust the appellate remedy before the 1st respondent and without exhausting the same, he has no right to knock the doors of this Court under Article 226 of the Constitution of India.

6.For the above said reason, this Court is unable to

entertain the Writ Petition at this stage and hence, the same is dismissed as not maintainable. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sgl

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Director of Adi-Dravidar Welfare
Chepauk, Chennai - 600 005.
- 2.The District Adi-Dravidar Welfare Officer,
Adi-Dravidar Welfare Office,
Villupuram District, Villupuram.
- 3.The Special Tahsildar (A.D.W.)
Adi-Dravidar & Tribal Welfare (Enquiry Officer)
Tindivanam - 604 001.
Villupuram District.

+1cc to Mr.M.Venkadeshn, Advocate, SR.No.71671

W.P.No.24305 of 2019

Kak(22/10/2019)

सत्यमेव जयते
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