



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.33331 & 33364 of 2019

W.M.P Nos.33792, 33793 & 33824 of 2019

P.Jeyakumar

Petitioner
in both W.Ps

vs.

1. The Principal Secretary,
School Education Department,
Government of Tamil Nadu,
Secretariat Complex, Chennai - 600 009.
2. The Director of Elementary Education,
DPI Campus, College Road,
Nungambakkam, Chennai - 600 006.
3. Chief Educational Officer - Thiruvallur,
Rear Side of District Collector's Officer,
Thiruvallur District.
4. The District Education Officer,
District Education Officer,
Government Boys Higher Secondary School,
Thiruttani.
5. The Assistant Elementary Education Officer,
Thiruvalolangadu,
Thiruvallur District.

Respondents
in both W.P.s

Respondent
in W.P.No.33364 of 2019

Prayer in W.P.No.33331 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records and quash the appointment of enquiry officers vide proceedings of the District Education Officer, Thiruttani in Na.Ka.No.528/A5/2019 dated 30.01.2019 and to direct the respondents to appoint an officer with impeccable record from another distant district to find out if there was any prima facie case against the Petitioner in the two complaints in the disciplinary proceedings initiated against the petitioner in (i)Na.Ka.No.2262/A5/2015 dated 28.08.2015 and (ii) Na.Ka.No.2262/A5/2015 dated 14.02.2018 and to closed the same if found to be false and frivolous and to submit a report



before this Court, and if in case prima facie case is reported to be found against the petitioner necessitating enquiries, to direct the respondents to appoint similar such officers having impeccable record from other distant districts to conduct and complete the enquiries in a fair, proper and time bound manner; and in the meanwhile to provide the petitioner with all the increments and promotions that were due to the petitioner within a time frame fixed by this Court.

Prayer in W.P.No.33364 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to comply and execute the order passed by the Assistant Elementary Education Officer in Na.Ka.No.86/2015/A1 dated 03.03.2015 restructuring all the selection grade salaries, and to recover the excess salaries from those teachers who have received excess salaries within a time frame fixed by this Court or in the alternative to fix the petitioner pay on the same basis as those drawing excess pay in the same grade and to pay the related arrears within the time framed fixed by this Court.

For Petitioner : Mr.J.T.Rajasuriya
in both W.Ps

For Respondents: Mrs.V.Annalakshmi
in both W.Ps Government Advocate

ORDER

This writ petition has been filed challenging the appointment of the Enquiry Officer and seeking for a direction to appoint a neutral Enquiry Officer in order to conduct the enquiry in the disciplinary proceedings that has been initiated against the petitioner.

2.It is seen from records that the petitioner was working as a Head Master in an Elementary School and in the year 2015 he is said to have disrupted a meeting that was conducted in the office of the District Education Officer and he had gone to the place in an inebriated state. The petitioner was immediately suspended and a show cause notice was also issued. Subsequently, the suspension was revoked and the petitioner was transferred to another school. In the said school there, was yet another complaint given by the teachers against the petitioner and a show cause notice was issued to the petitioner in the year 2017 and he was again suspended from the service in the year 2018. The charges were framed against the petitioner in the year 2018 and in the disciplinary proceedings is under progress.



3.The grievance of the petitioner is that two Head Masters belonging to different schools at Thiruvallur have been appointed as an Enquiry Officer and they are acting in a very biased manner and they are influenced by the District Education Officer. The further grievance of the petitioner is that the entire enquiry is one sided and the petitioner is not even provided with sufficient materials and not allowed to be represented by an Advocate. Therefore, the present writ petition has been filed challenging the appointment of the Enquiry Officer.

4.Heard Mr.J.T.Rajasuriya, learned counsel appearing on behalf of the petitioner and Mrs.V.Bhuvaneswari, learned Government Advocate appearing on behalf of the respondents.

5.Several contentions were raised on both sides. Counter affidavit was also filed by the 4th respondent, wherein a stand has been taken that the petitioner is continuously dragging on the proceedings and this is one more attempt made by the petitioner to drag on the proceedings.

6.This Court does not want to go into any of the allegations made by the petitioner. The petitioner has made certain allegations against the Enquiry Officer and therefore it will not be proper to make the petitioner undergo the enquiry before the same officers. At the same time, it must also be ensured that the enquiry is completed within a reasonable time. It is seen that the enquiry has been pending for quite a long time without any progress.

7.Taking into consideration the facts and circumstances of the case and in order to ensure that a neutral person is appointed as an Enquiry Officer, Mr.K.S.Suresh, Advocate, No.25, Mothilal Street, Thiruvallur - 602 001, Mobile: 9443119879, is appointed as an Enquiry Officer and the enquiry shall be conducted at Block Education Office, Thiruvallur - 631 209. The petitioner shall pay a sum of Rs.2500/- to the Enquiry Officer appointed by this Court for every effective hearing date. The Enquiry Officer shall ensure that principles of natural justice is complied with and all the parties concerned are given sufficient opportunity. The Enquiry Officer shall complete the enquiry within a period of six weeks from the date he starts the enquiry. Enquiry shall be commenced within a period of two weeks from the date of receipt of copy of this order. On the submission of the enquiry report, the concerned authority shall complete the disciplinary proceedings within a period of six weeks, thereafter.



8. This writ petition is disposed of with the above directions.

9. Insofar as the claim made by the petitioner in W.P.No.33364 of 2019 is concerned, the same need not be considered for the present. The petitioner can await final result in the disciplinary proceedings and thereafter depending upon the result, he can always revive the claim that he has made in W.P.No.33364 of 2019. Therefore, the writ petition in W.P.No.33364 of 2019 is closed by giving liberty to the petitioner to make the claim at a future point of time. Consequently, connected miscellaneous petitions are closed. No Costs.

Sd/-
Asst.Registrar (CS V)

/true copy/
Sub Asst. Registrar

ssr
To

1. The Principal Secretary,
School Education Department,
Government of Tamil Nadu,
Secretariat Complex, Chennai - 600 009.
2. The Director of Elementary Education,
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Thiruttani.
5. The Assistant Elementary Education Officer,
Thiruvalolangadu,
Thiruvallur District.
6. The Public Prosecutor,
High Court of Madras,
Madras.



Copy to:

Mr.K.S.Suresh,
Advocate
No.25, Mothilal Street,
Thiruvallur - 602 001.
Mobile: 9443119879.

+1 cc to Mr.T.K.S.Gandhi Advocate sr102032
+1 cc to Government Pleader sr102927

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sr(co)
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