



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.10322 of 2014
and
M.P(MD)No.2 of 2014

P.Ponswamy

... Petitioner

Vs.

1.The Director of School Education,
College Road,
Chennai-6.

2.The Joint Director of School Education,
(Higher Secondary), College Road,
Chennai-6.

3.The Chief Education Officer,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records in Na.Ka.No.84053/W3/E3/2013 dated 06.02.2014 issued by the second respondent herein and quash the same.

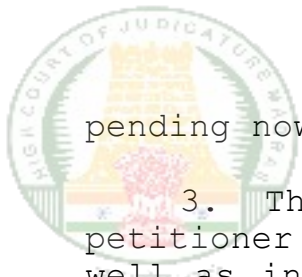
For Petitioner : Mr.S.R.Aravind Raj

For Respondents : Mrs.S.Srimathy
Special Government Pleader

ORDER

The charge memo, dated 6.2.2014, is under challenge in the present writ petition.

2. The writ petitioner joined as Graduate Assistant in Economics on 19.06.1990. He was working in the Government Higher Secondary School, Kalkulam and a criminal case was registered against him under Section 302 of Indian Penal Code. The writ petitioner was arrayed as an accused in a murder case and on the date of superannuation, the department had passed an order placing the writ petitioner under suspension and not allowing him to retire from service. The charge memo issued against the writ petitioner is



pending now.

3. The learned counsel appearing on behalf of the writ petitioner states that the allegations both in the criminal case as well as in the department disciplinary proceedings are one and the same. The charges against the writ petitioner is that the writ petitioner conspired and actively involved in a murder case and he arrested on 29.09.2013 and now, he is imprisoned in Puzhal Prison and subsequently, released on bail.

4. When the charge itself is in relation to the murder case, this Court is of the considered opinion that the department may not be in a position to continue the enquiry proceedings as the documents, evidences may not be available with the department so as to conclude the departmental disciplinary proceedings. However, the case can be proceeded on the ground of moral turpitude a teacher involving in a murder case as an accused itself is to be considered by the department. However, the charges are directly in connection with the criminal case and there is no other allegations are stated in the impugned charge memo. Under these circumstances, the option available to the competent disciplinary authority is to keep the departmental disciplinary proceedings in abeyance till the disposal of the criminal case and thereafter, continue the departmental disciplinary proceedings and conclude the same after receiving the documents, copy of the deposition, evidences from the police department or from the Court concerned. A department has to collect the materials and independently proceed with the departmental disciplinary proceedings and even in case of acquittal, the department is empower to continue the departmental disciplinary proceedings and punish the employee for committing any misconduct contemplated under the Tamil Nadu Government Servant Conduct Rules.

5. Thus, mere acquittal in a criminal case is not a ground to exonerate the public servant to the departmental disciplinary proceedings. Considering the facts and circumstances as well as the nature of the charges framed against the writ petitioner, this Court is of the considered opinion that the departmental disciplinary proceedings are to be kept in abeyance till the disposal of the criminal case and after the disposal of the criminal case, the department is at liberty to continue the proceedings and conclude the same and take a decision based on the materials available on record.

6. Under these circumstances, the respondents are directed to keep the departmental disciplinary proceedings in abeyance till the disposal of the criminal case and after the disposal of the criminal case, the respondents are at liberty to continue the departmental disciplinary proceedings with reference to the records and materials collected and available and accordingly, take a decision and pass orders by following the procedures contemplated under the Discipline



and Appeal Rules.

7. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Director of School Education,
College Road, Chennai-6.

2.The Joint Director of School Education,
(Higher Secondary), College Road,
Chennai-6.

3.The Chief Education Officer,
Kanyakumari District.

+1 CC to M/s.SPL GP (SR-81962[F] dated 16/08/2019)

+1 CC to M/s.R. ARAVINDRAJ, Advocate (SR-82126[F] dated
19/08/2019)

W.P. (MD) No.10322 of 2014
14.08.2019

am

JMN(27.08.2019) 3P : 6C