

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2020

CORAM

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

Writ Petition No.19927 of 2012
and W.M.P.No.4756 of 2017

K. Dayalan

...Petitioner

Vs.

1. The Director of Elementary Education
College Road,
Chennai 600006.
2. The District Elementary Educational Officer,
Villupuram District,
Villupuram.
3. The Additional Assistant Elementary
Educational Officer, Vanur Range
at Thiruchitrambalam
Villupuram District.
4. The Secretary,
Gandhi Aided Middle School,
Thiruchitrambalam & Post,
Vanur Taluk,
Villupuram District.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorari and Mandamus calling for records relating to orders passed by the Second Respondent in Na.Ka.No.7488/A4/98/dated 18.12.2000 and the consequent order of dismissal from service passed by the fourth respondent dated 20.02.2001, quash the same and direct the respondents to settle all the retirement benefits including the back wages and other consequential attendant benefits.

For Petitioner : Mr.S. Kamadevan

For Respondents: M/s.R. Raja,
Government Advocate [for R1 to R3]
Mr.V. Sivalingam for
M/s. C.S. Associates [for R4]

O R D E R

The Petitioner was appointed as Secondary Grade Teacher in Fourth Respondent's Aided School on 21.1.1974. He was dismissed from service pursuant to an enquiry conducted by the School Committee and by an order dated 17.11.1997. As per the extant rule the decision was sent to the District Elementary Educational Officer for his approval. In Proceedings Na.K.No.7488/m4/98 dated 25.4.2000, the Petitioner was directed to rejoin duty on humanitarian consideration. It was reiterated in proceedings Na.Ka.No.1426/M1/98 dated 16.5.2000 by the Additional Assistant Elementary Educational Officer, Vanur.

2. However, he was not allowed to rejoin duty and the District Elementary Educational Officer in Proceedings Na.Ka.No.7488/A4/98 dated 18.12.2000 has approved the dismissal recommended by the School Committee under Section 22(2) of Tamil Nadu private Schools (Regulations) Act, 1973 and Rules, 1974. Pursuant to the approval granted by the Second Respondent, the Fourth Respondent management has removed him from service with effect from 20.02.2001. Accordingly it was implemented by the First Respondent in his Proceedings X.K.No.31952/\$p1/vr;2/2010 dated 3.3.2012. Aggrieved over the order of approval passed by the Second Respondent dated 18.12.2000, the Petitioner is now before the Court.

3. According to the learned counsel for the Petitioner, as per Rule 22(2) Tamil Nadu Private Schools (Regulation) Act 1973, the Second Respondent shall consider and satisfy himself on the adequacy and reasonable grounds of the proposal sent by the Fourth Respondent Management. Whereas the approval was simply granted as per the rules without assigning any reason. Therefore, the Petitioner would contend that the order of approval given by the Second Respondent is liable to be set aside.

4. I heard the submissions.

5. No doubt, the School Committee has conducted detailed enquiry and had taken a decision to recommend removal of the Petitioner from service. It was approved by the Second Respondent also, though without reasons. On the basis of that approval, the order of removal was issued by the Fourth Respondent to the Petitioner. In that event, the petitioner would have challenged the order of removal by filing appeal to the Appellate Authority. But the Petitioner has directly approached this Court under Article 226 of the Constitution. Now the Petitioner is aged about 70 years, at this stage a direction

to the petitioner to file an appeal would not serve any purpose and at the same time, the orders of the Second Respondent in approving the recommendation without assigning reason cannot also be sustained as per Section 22(2) of the Tamil Nadu School Private Schools (Regulation) Act 1973. Section 22(2) of the Act reads as under:

22. Dismissal, removal or reduction in rank or suspension of teachers or other persons employed in private schools:

22(1)

22(2) Where the proposal to dismiss, remove or reduce in rank or otherwise terminate the appointment of any teacher or other person employed in any private school is communicated to the competent authority, that authority shall, if it is satisfied that there are adequate and reasonable grounds for such proposal, approve such dismissal, removal, reduction in rank or termination of appointment."

6. As stated supra, approval granted by the Second Respondent does not record any reasons for satisfying that there are adequate and reasonable grounds, it is remitted back for consideration afresh. On such approval being granted for the reasons, consequent actions shall follow. If the Petitioner is aggrieved over the order of the Fourth Respondent, then he is entitled to file an appeal and work out his remedy in the manner known to law.

7. The Writ Petition is disposed of with the above direction. No costs. Consequently, connected M.P. is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ggs

Copy to:

1. The Director of Elementary Education
College Road,
Chennai 600006.

2. The District Elementary Educational Officer,
Villupuram District,
Villupuram.

3. The Additional Assistant Elementary
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at Thiruchitrambalam
Villupuram District.

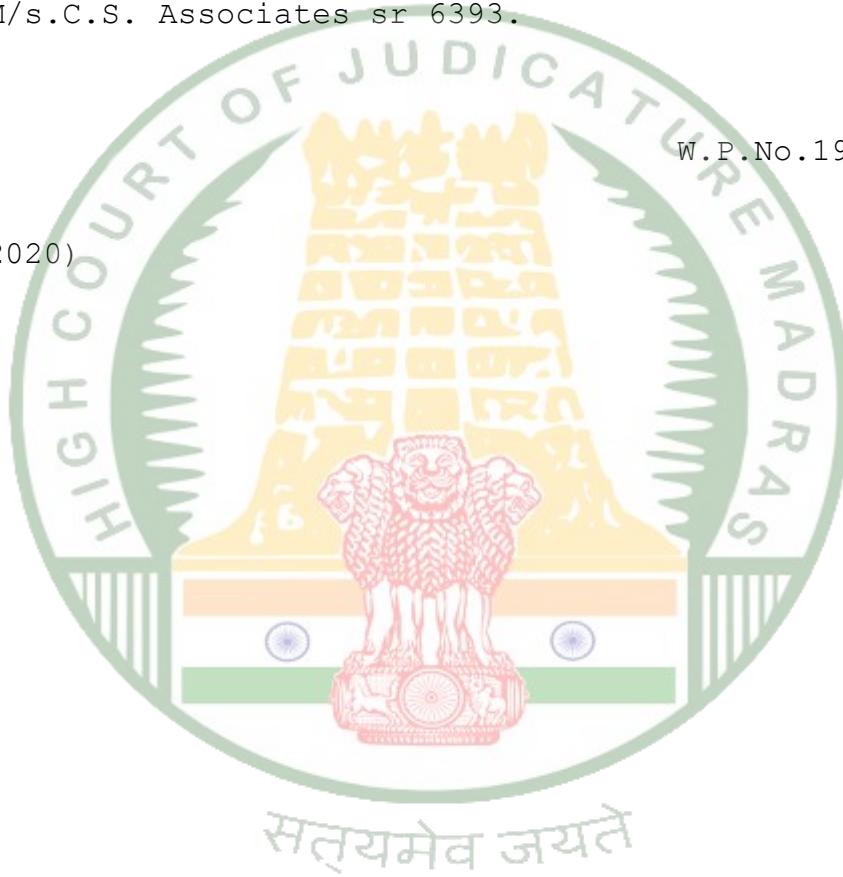
+1 CC to Mr.S. Kamadevan, Advocate sr 6909

+1 CC to Govt. Pleader sr 7203

+1 CC to M/s.C.S. Associates sr 6393.

W.P.No.19927 of 2012

RLD (CO)
SP (17/07/2020)



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