

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 09.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.32689 of 2015
and
MP.No.1 of 2015

C.Babu

...Petitioner

- Vs -

1. Director of School Education,
College Road, DPT Campus,
Chennai-600006
2. The Joint Director of Secondary Education,
College Road, DPI Campus,
Chennai-600006.
3. The Chief Educational Officer,
Panagal Building,
Saidapet, Chennai-600015
4. The District Educational Officer,
Chennai East,
Choolaimedu High Road,
Chennai 600094.
5. The Secretary
School Committee,
Rao Bahadur Allathure Nathamoony Chetty
Higher Secondary School
No.26, Samy Street,
Chennai-600002

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned letter No.S/218/2015 dated 24/02/2015 not permitting the Petitioner enter into the school of the fifth respondent and quash the same consequently direct the respondents to permit the Petitioner to work as Junior Assistant in the school, and sign in the attendance register and provide a seat in the office room.

For Petitioner : Mr.U.Karunakaran

For Respondents: Mr. S.Sureshkumar, G.A., For R1 to R4
Mr.Ilam Valudhi for R5

ORDER

The petitioner in the above writ petition prays, to call for the records relating to the Charge Memo Letter No.Se/94/2014 dated 12.03.2014 and consequential order of suspension letter No.Se./129/2014 dated 23.06.2014 issued on the file of the fifth respondent and quash the same consequently direct the fifth respondent to stop harassing the petitioner.

2. According to the petitioner he has joined as Office Assistant on 11.2.2000 in the 5th respondent School .On 1.10.2006 a vacancy in the post of Junior Assistant arose due to voluntary retirement of one Selvi. Beula Devi. As on 1.10.2006 the eligible persons to be considered for the said post were one N.Chandra Babu, and the petitioner. There was a charge pending against the said N.Chandra Babu and hence, he was not considered for the said post and, therefore, the petitioner requested for considering his name as he is the next eligible person to be promoted to the post of Junior Assistant vide representation dated 6.8.2010. Pursuant to his representation, the Court appointed Interim Committee vide Resolution dated 27.10.2010 appointed him as Junior Assistant. It is the case of the petitioner that on the present school committee coming to power, it has decided to appoint Mr.N.Chandra Babu as Junior Assistant in his place. So as to facilitate the same the said N.Chandra Babu, the 5th respondent has given false and frivolous charges and continuous trouble to the petitioner. Therefore, the petitioner gave representation dated 18.02.2014 to the first respondent seeking transfer along with post to some other school narrating the harassment given by the 5th respondent. Thereafter, On 12.3.2014 again the 5th respondent has issued a charge memo consisting of 11 charges and called for explanation within 15 days. On 26.4.2014 the petitioner has given reply to the above charge memo. It is the grievance of the petitioner that on 2.6.2014 and 3.6.2014, he was not allowed to sign in the attendance register. On the very same day he has sent communication to the fourth respondent requesting to instruct the fifth respondent to allow the petitioner to sign in the attendance register. The fifth respondent has not permitted the petitioner to affix his signature in the attendance register and, therefore, from 2.6.2014 onwards every day ie, 3.6.2014, 10.6.2014, 11.6.2014, 12.6.2014, 16.6.2014, 17.6.2014, 18.6.2014, 19.6.2014, 20.6.2014, 23.6.2014, 25.6.2014, 26.6.2014 and 27.6.2014 , he has sent representations to the respondents 2 to 4 requesting to permit him to sign in the attendance register. While the matter stood thus, the 5th respondent has issued a suspension order dated 23.6.2014 against which the petitioner filed writ petition which is pending for disposal before this Hon'ble Court. The Headmistress of 5th respondent school has sent communication under RTI Act on 08.11.2014 along with the impugned reversion order, reverting the petitioner from

the post of Junior Assistant to the substantive post of Office Assistant passed by the fourth respondent vide order bearing Na.Ka.No.4955/A1/2014 dated 28.3.2014 which was received by him on 12.11.2014. Aggrieved by the said order, the petitioner preferred W.P. No.31419/2014.

3.It is the further case of the petitioner that in the above writ petition, W.P. No.31419/14, this Court was pleased to grant an order of interim stay. Even thereafter, the school authority has not allowed the petitioner to sign in the attendance register, but the petitioner was made to sit in the bench like an office assistant without providing a seat in the office. Thereafter from 02.03.2015 he was not allowed to enter the school premises vide letter no. S/218/2015 dated 24.02.2015. On receipt of the same he has sent detailed representations to the official respondents. In these circumstances, the petitioner has preferred the above writ petition for quashment of the impugned letter No.S/218 /2015 dated 24.02.2015 and consequently direct the respondents to permit him to work as Junior Assistant in the school, and sign in the attendance register and provide a seat in the office room. It is the further case of the petitioner that relating to the act of the 5th respondent in calling upon the petitioner to produce the service records, identity card and original certificate of VIII standard, he has filed another WP.No.20783/2014, challenging the said memo.

4.Though very many grounds have been raised in support of the petition, the learned counsel appearing for the petitioner submitted that the entire action of the 5th respondent is only with a mala fide intent and oblique motive. On an earlier occasion, he was constrained to file writ petition for challenging the impugned charge memo as well as suspension order. This Court has set aside the charge memo and suspension order and remanded back the matter to the original authority to pass appropriate orders as per the Act. It is the further submission of the learned counsel for the petitioner that with regard to production of 8th standard certificate issued by the Corporation, attested by the Gazette officer and for non production of service records the petitioner has already submitted a detailed representation and, therefore, this Court may issue a direction to the competent authority to pass appropriate orders on the representation filed by the petitioner.

5.On the above contention, this Court heard the learned Government Advocate appearing for respondents 1 to 4 and learned counsel appearing for the 5th respondent, who have no serious objection for such a direction being issued by this Court.

6. On the earlier occasion, admittedly the charge memo was issued by the 5th respondent is without getting prior approval of the school committee and the suspension order was passed without getting prior approval from the competent authority, which is the issue in WP.No.20785/2014 and the same has been set aside by this Court. Therefore, considering the facts and circumstance of the case and in view of the limited relief sought for and there being no serious objection for the said relief on behalf of the respondents, this Court, without going into the merits of the issue, directs the competent authority/School Committee to consider the representation filed by the petitioner and dispose of the same in accordance with law within a period of twelve weeks from the date of receipt of copy of this order.

7. With the above direction, this Writ Petition is disposed of. Consequently connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

Jrs

To

1. Director of School Education,
College Road, DPT Campus,
Chennai-600006

2. The Joint Director of Secondary Education,
College Road, DPI Campus,
Chennai-600006.

3. The Chief Educational Officer,
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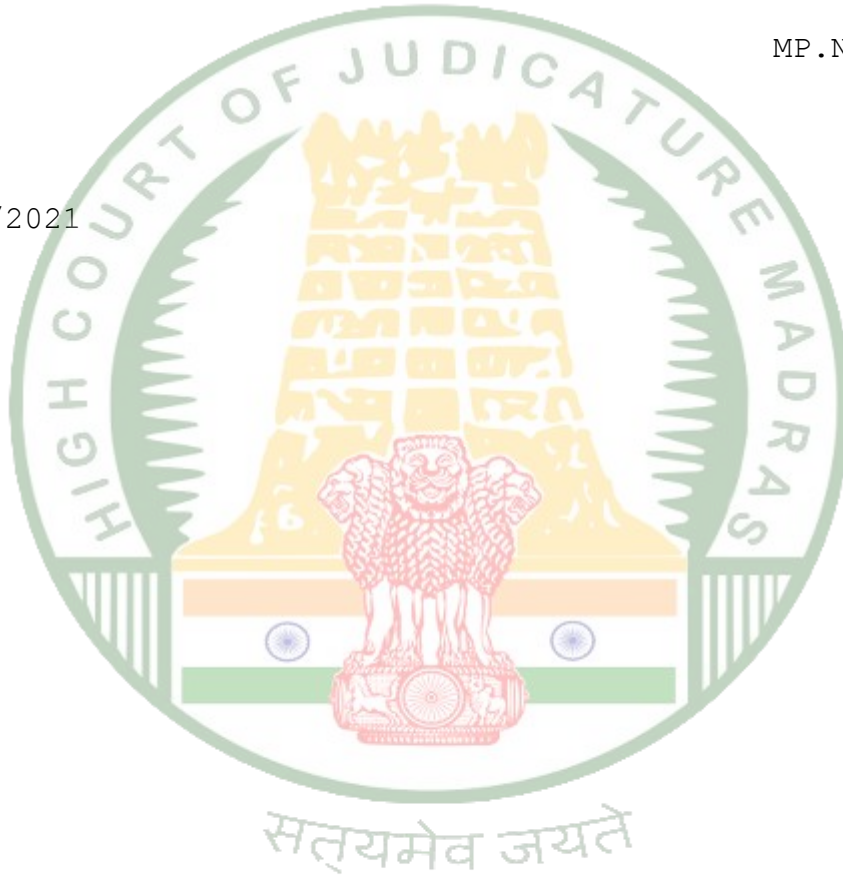
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Higher Secondary School
No.26, Samy Street,
Chennai-600002

+1cc to M/s.S.Ilamvaludhi, Advocate, SR.No.39943
+1cc to Mr.V.Karunakaran, Advocate, SR.No.40286

W.P. No.32689 of 2015
and
MP.No.1 of 2015

SR(CO)
KKV/25/02/2021



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