

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 09.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. Nos.27849, 31419 & 27847 of 2014
and
M.P.Nos.1, 1, 2 of 2014

C.Babu

...Petitioner in all Wps.

- 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 in all Wps.

Prayer in Writ petition No.27849 /2014:

Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified mandamus, calling for the records pertaining to the file relating to the extension of suspension period for further two months vide letter bearing No.Se/141/2014 dated 28.08.2014 issued by the fifth respondent and quash the same consequently direct the respondents permit the petitioner to join duty.

Prayer in Writ petition No.31419 /2014:

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 proceeding Na.Ka.No.4955/A1/2014 dated 28.03.2014 cancelling the order of promotion vide proceeding bearing No.Mu.Mu.NO.5134/A1/2013 dated 03.09.2013 on the file of the fourth respondent which was served on 12.11.2014 and quash the same consequently direct the respondents to place him in the same post he has held.

Prayer in Writ petition No.27847/2014:

Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, directing the fifth respondent to provide the documents which are referred by the petitioner by letter dated 23.08.2014.

In all WPs.,

For Petitioner : Mr.U.Karunakaran

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

COMMON ORDER

As the issue involved in all these writ petitions are interconnected, they are being disposed of by way of this common order.

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.

2.1.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 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.

2.2.It is the grievance of the petitioner that without passing any order or communication, the then Secretary by his order dated 19.09.2013, has simply changed the post of the petitioner as Office Assistant instead of Junior Assistant in the attendance register, from 01.11.2013 onwards. In this regard, the 5th respondent had sent an impugned letter dated 28.08.2014, stating that the suspension period was extended for further period of two months since the enquiry was not completed. The said impugned order is contrary to the Tamil Nadu Private School Regulation Act 1973, Challenging the same the petitioner is before this Court by filing these writ petitions.

3.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.

4.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 and also perused the materials available on record.

5.The petitioner was placed under suspension vide letter No.Se/129/2014, dated 23.6.2014, which was served on the petitioner on 27.06.2014. The petitioner had challenged the charge memo as well as suspension order by filing W.P.No.20783 of 2014 and this Court by its order dated 09.12.2020, allowed the said writ petition on the ground that the impugned orders had been passed by an authority who is not competent to pass the said orders and the said impugned orders have been passed without getting the approval of the School Committee.

6. In view of the above stated scenario, the very same person having passed the present impugned orders extending the suspension period by two months vide letter No.Se/141/14, dated 28.08.2014, cannot be sustained, more so when the impugned order of suspension and charge memo itself have been quashed. Therefore, the impugned orders passed in all these writ petitions cannot have any legs to stand.

7. For the reasons aforesaid, nothing survives for consideration in these writ petitions and accordingly these writ petitions stand dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

jrs
To

- 1.The 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.

+3ccs to Mr.U.Karunakaran, Advocate Sr.40285, 40287 & 40288
+3ccs to M/s.S.Ilamvaludhi, Advocate Sr.39936, 39938 and 39942
+1cc to the Government Pleader Sr.40372

W.P. Nos.27849, 31419 & 27847 of 2014
and M.P.Nos.1, 1, 2 of 2014

ajs[col]
srg 09/03/2021