

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2020

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

W.P.No.19666 of 2020

&

W.M.P.Nos.24305 & 25306 of 2020

Dr.A.S.Radhakrishnan,
Joint Director of School Education(HS) (retired),
DPI Campus,
College Road,
Chennai-600 006.

...Petitioner

Vs.

1.The Principal Secretary to Government,
School Education Department,
Secretariat,
Chennai-600 009

2.The Director of School Education,
DPI Campus,
College Road,
Chennai-600 006

...Respondents

Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the impugned order passed by the first respondent in Letter No.12651/SE(1)(2)/2016-14, School Education Department dated 27.11.2020 and quash the same and consequently to direct the respondents to settle the terminal benefits of Pension, Commutation of Pension and DCRG amount alongwith interest without any recovery and to pass an appropriate order as this Court may deem fit and proper in the circumstances of the case.

For Petitioner .. Mr.S.N.Ravichandran

For Respondents .. Mr.C.Munusamy, Spl.GP

ORDER

The Writ Petition is filed, challenging the show cause notice dated 27.11.2020 issued by the first respondent, directing the petitioner to submit his explanation or acceptance

as to the punishment proposed in the show cause notice, namely 25% cut in pension for a period of 5 years.

2. The facts in brief are that the petitioner was working as Joint Director of School Education and retired from service on 31.07.2019. While he was working as Chief Educational Officer at Kanniyakumari District during 2015, he was issued with a charge memo under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules 1955 containing 4 Articles of charges. According to the petitioner, that while enquiry was ordered into the charges, 5 enquiry officers have been appointed one after the other and ultimately, the enquiry was not concluded.

3. The learned counsel for the petitioner would submit that the petitioner made representations to the enquiry officers requesting for furnishing of certain documents which were relied on by the administration in support of charges and since his request has not been considered, the charges could not be taken to its logical end for some time. However, the last Enquiry Officer without following the due procedure, proceeded to complete the enquiry and submitted a report on 22.01.2019. The petitioner thereafter was directed to submit his explanation to the report, but submitted his representations, strongly objecting to the illegal conclusions of the enquiry proceedings against him.

4. While matter stood thus, the 1st respondent issued show cause notice dated 27.11.2020 to the petitioner proposing to impose penalty of 25% cut in pension every month for a period of 5 years. According to the learned counsel, as the show cause notice has been issued in violation of the rules and procedure, no useful purpose would be served even if the reply is given to the same.

5. In consideration of the above narrative, this Court is of the view that whatever be the circumstances pleaded in the affidavit, ultimately what is challenged in the Writ Petition is only a show cause notice issued to the petitioner. It is always open to the petitioner to submit his explanation and raise all the objections as he may deem fit and proper and convince the authority as to the maintainability of the show cause notice. But it is certainly not open to the petitioner to rush to this Court without giving any explanation and seek to stall the final action to be taken on the show cause notice issued to the petitioner.

6. This Court, in any case, is not inclined to accept any explanation from the petitioner as to the correctness and the validity of the show cause notice as it must be decided on

proper and acceptable legal grounds and not on the basis of the self-serving averments of the petitioner. It is always open to the petitioner to question any final orders issued pursuant to the show cause notice, if according to him, the same suffered from any illegality. At the same time, it is not open for him to approach this Court at this stage and to assail the show cause notice itself.

7. Therefore, the Writ Petition is dismissed as not maintainable being pre-matured. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Secretary to Government,
School Education Department,
Secretariat,
Chennai-600 009

2.The Director of School Education,
DPI Campus,
College Road,
Chennai-600 006.

+1cc to Mr.S.N.Ravichandran, Advocate SR.42535

+1cc to the Government Pleader SR.42501

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AD(CO)

CB(23/02/2021)

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