



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.12764 of 2011

and

M.P. (MD)No.1 of 2011

WEB COPY

S.Jayamani

... Petitioner

Vs.

1.The Commissioner,
Madurai Corporation,
Madurai-2.

2.The Deputy Commissioner,
Madurai Corporation,
Madurai-2.

3.The Corporation Educational Officer,
Madurai Corporation,
Madurai-2.

4. The Headmaster,
Elango Corporation Boys Higher
Secondary School,
Shenoy Nagar,
Madurai-20.

... Respondents

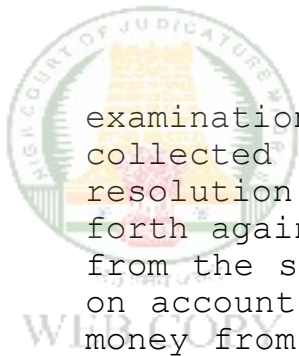
PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the second respondent in his proceedings in Ref.No.VO2/20878/2009, dated 19.09.2011 and quash the same and direct the respondents to refund the amount of Rs.50,000/- received by the respondents by force on 11.02.2010 with interest at the rate of 18% per annum and confer all the consequential benefits.

For Petitioner : Mr.V.Panneerselvam
for M/s C.S.Associates

For Respondents
No 1 to 4 : Mr.R.Murali

ORDER

The order impugned passed by the second respondent in proceedings dated 19.09.2011, directing the writ petitioner to pay a sum of Rs.26,500/- (Rupees Twenty Six Thousand and Five Hundred only) is under challenge in the present writ petition. The writ petitioner was working as a Headmaster of Corporation Higher Secondary School and Parent Teachers Association of Elango Corporation Boys Higher Secondary School, Madurai passed a resolution requesting the Headmaster to conduct special test for the students of 10th and plus two, who are going to appear for the public



examination. In this regard, the Parent Teachers association collected funds for the welfare of the school, pursuant to the resolution passed. This created an issue and an allegation was put forth against the writ petitioner regarding such collection of money from the students. The impugned order dated 19.09.2011 states that on account of certain irregularities in the matter of collection of money from the students, part amount had already been deposited and the balance amount had not been deposited by the writ petitioner. The impugned order proceeds as if the writ petitioner had admitted the charges. However, the impugned order is non-speaking regarding the conduct of enquiry, providing an opportunity and other procedures to be followed, for the purpose of conducting enquiry proceedings.

2. Learned Counsel appearing on behalf of the writ petitioner mainly contended that action was initiated pursuant to the orders of the Director of School Education, dated 19.10.2001 and the said order itself was passed in the year 2005 and the writ petitioner retired from service on 31.07.2009 and therefore, there is no scope for implementing the impugned order as there is no proof to establish such an admission by the writ petitioner nor proper enquiry had been conducted by the authorities concerned.

3. Learned Counsel appearing on behalf of the respondents disputed the contentions made by the learned Counsel appearing on behalf of the writ petitioner by stating that the writ petitioner himself admitted the charges and in view of the fact that he had requested time to deposit the balance amount, the impugned order has been passed. Thus the writ petitioner is liable to pay the balance amount of Rs.26,500/- (Rupees Twenty Six Thousand and Five Hundred only) and therefore, the writ petition is liable to be dismissed.

4. This Court is of the considered opinion that any order affecting the service conditions of the employees must be passed only after providing opportunity to the aggrieved person and by following the procedures contemplated under the Tamil Nadu Civil Service (Discipline & Appeal) Rules. It is not as if a non-speaking order can be passed directing the employee to pay the amount. The impugned order is silent regarding the enquiries if any conducted and the details regarding the admission as stated by the learned Counsel appearing on behalf of the respondent Corporation. Even otherwise also, the allegation is of the year 2001 and the money was collected pursuant to the resolution passed by the Parent Teachers Association in order to facilitate the students to undergo the special test to be conducted and therefore, now a lapse of about 19 years after, from the date of the order passed by the Director of School Education, no purpose would be served in allowing the respondents to continue the proceedings in view of the fact the writ petitioner was retired from service on 31.07.2009. Now 11 years have been lapsed.

<https://hcservices.courts.gov.in/cases> In these circumstances, the impugned order cannot be



allowed to be continued for re-enquiry or following further procedures as the writ petitioner retired from service 11 years back and now he is aged about 70 years old.

6. With reference to the amount already deposited, the learned Counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner is entitled to get back the amount deposited.

7. In this regard, the writ petitioner is permitted to submit a detailed representation and the authorities are at liberty to conduct an enquiry based on the files available and pass appropriate orders at the earliest possible.

8. As far as the impugned order of further recovery is concerned, in the interest of justice and on account of lapse of many years, the impugned order passed by the second respondent in proceedings in Ref.No.VO2/20878/2009, dated 19.09.2011 stands quashed. Accordingly, the writ petition stands allowed. No costs. Connected M.P. is closed.

Sd/-

Assistant Registrar (AE)

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/ /2020

Sub Assistant Registrar(CS)

SSL

To

- 1.The Commissioner,
Madurai Corporation,
Madurai-2.
- 2.The Deputy Commissioner,
Madurai Corporation,
Madurai-2.
- 3.The Corporation Educational Officer,
Madurai Corporation,
Madurai-2.
4. The Headmaster,
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Madurai-20.

+1 CC to M/s.R. MURALI, Advocate (SR-19215[F] dated 06/10/2020)

W.P. (MD)No.12764 of 2011

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SCR(CO)

KB(14.10.2020) 3P 6C