



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2020

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.1994 of 2011

and

M.P(MD)No.1 of 2011

K.Chellapandian

... Petitioner

vs.

1)The Joint Director of School Education,
Higher Secondary,
Office of the Director of School Education,
College Road, Chennai-6.

2)The Chief Educational Officer,
Pudukottai,
Pudukottai District.

3)The Headmaster,
Government Higher Secondary School,
Sadayampatti,
Pudukottai District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of termination passed by the 1st respondent in his proceedings Na.Ka.No.14451/W3/E1/2005 dated 14.01.2011 and quash the same as illegal and consequentially direct the respondents to reinstate the petitioner in service with continuity of service and backwages.

For Petitioner : Mr.C.Venkatesh Kumar for
Ajmal Associates

For Respondents : Mr.N.Shanmuga Selvam
Additional Government Pleader

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of termination passed by the 1st respondent in his proceedings Na.Ka.No.14451/W3/E1/2005 dated 14.01.2011 and quash the

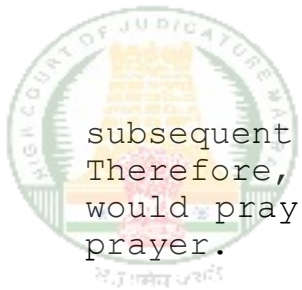


same as illegal and consequently direct the respondents to reinstate the petitioner in service with continuity of service and backwages.

2.The petitioner would submit that he has completed his higher secondary education in March 1989 and passed B.A(Tamil) in 1995 and then M.A in 1997 from Yadava College affiliated to Madurai Kamaraj University and obtained B.Ed., degree from Bharathidasan University in 1999. Being qualified for participating in the recruitment by the Teachers Recruitment Board during the year 2003-04 for appointment to the post of P.G. Assistant, the petitioner participated and he was selected for appointment to the post of P.G. Assistant. Pursuant to the same, the petitioner was issued with the appointment order initially on consolidated pay and thereafter, he was given time scale of pay by proceedings in Na.Ka.No.61422/W.20/04 dated 25.06.2004. While so, the petitioner was issued with a notice by the 1st respondent in his proceedings Na.Ka.No.14451/W20/05 dated 13.06.2006, as to why he should not be terminated from service alleging that he has modified his marks from 66% to 86% in the Higher Secondary Education in English subject and the petitioner was directed to submit his explanation.

3.The petitioner would further submit that though he had given a reply to the above notice on 13.07.2006 stating that there was no correction in the mark statement as alleged by the 1st respondent, without considering his explanation, the 1st respondent proceeded to terminate the petitioner from service without issuing any charge memo or without conducting any enquiry. Therefore, the petitioner filed W.P(MD)No.6188 of 2006 challenging the above notice issued by the 1st respondent in his proceedings in Na.Ka.No.14451/W20/05, dated 13.06.2006. However, since the petitioner restricted his relief only to pass orders on the notice with reference to the petitioner's representation dated 13.07.2006, this Court by order dated 09.07.2010 directed the 1st respondent to pass orders on the notice dated 13.06.2006 with reference to the petitioner's representation dated 13.07.2006, within six weeks. Instead of passing orders as aforesaid, the 1st respondent has chosen to issue a show cause notice dated 14.09.2010 on the same allegation, for which, the petitioner reiterating his earlier stand, gave his explanation requesting the 1st respondent to drop action or to conduct an enquiry. But without issuing any charge memo or without conducting any enquiry as contemplated under the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the 1st respondent has passed the impugned order of termination by proceedings dated 14.01.2011. Hence, challenging the termination, the petitioner has filed the present writ petition.

4.Learned counsel for the petitioner produced the original certificate of Higher Secondary School Education mark sheet and stated that the petitioner has secured 86% marks in English subject. He would further submit that though the petitioner has secured fail mark of 66% in English subject, later, he participated in the



subsequent examination and secured 86% marks in English subject. Therefore, there is no alteration of marks by the petitioner and would pray for setting aside the impugned order with consequential prayer.

5. Learned Additional Government Pleader appearing for the respondents had filed a counter affidavit stating that the petitioner's appointment will be subject to the verification as to the genuineness of his educational certificate. He would further submit that the Headmaster of the Higher Secondary School requested the petitioner to produce the original Higher Secondary School mark sheet, but the petitioner had not produced the same. He also submitted that the petitioner has obtained only 66% of marks and had converted the same into 86%. The above alteration was found confirmed by the Director of Government Examination who informed the same to the Director of School Education by letter dated 13.06.2006. Thus, he would state that the petitioner has not passed the Higher Secondary Public Examination and would pray for dismissal of the writ petition.

6. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents.

7. Admittedly, the petitioner has not been issued with any charge memo nor enquiry was conducted. It is the specific contention of the petitioner in his replies that he had not modified his marks in the Higher Secondary Education mark statement in English subject as alleged and he had secured 86% of marks in the subsequent examination and if the respondents would have followed due process of law by issuing charge memo to the petitioner or conducting enquiry, the petitioner would have been able to produce the mark statement and establish his case. In the earlier round of litigation, when this Court has specifically directed the respondents to pass orders on the petitioner's representation dated 13.07.2006 within a period of six weeks by order dated 09.07.2010, instead of passing orders on the representation, a second show cause notice has been issued and though the petitioner submitted his explanation, without following the due process of law contemplated under the Tamil Nadu Civil Services (Discipline and Appeal) Rules, by issuing charge memo or conducting enquiry, unilaterally, the petitioner has been terminated from service by the present impugned order in blatant violation of principles of natural justice. Since the principles of natural justice is violated, I am inclined to interfere with the impugned order.

8. Accordingly, the impugned order of termination passed by the 1st respondent in his proceedings Na.Ka.No.14451/W3/E1/2005 dated 14.01.2011, is set aside and the petitioner shall be reinstated forthwith. The matter is remanded to the respondents to pass fresh order by following the due process of law and such orders shall be passed within a period of six months from the date of receipt of a copy of this order.



With the above direction, the writ petition is partly allowed.
No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar ()

// True Copy //

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Sub Assistant Registrar(CS)

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To

1)The Joint Director of School Education,
Higher Secondary,
Office of the Director of School Education,
College Road, Chennai-6.

2)The Chief Educational Officer,
Pudukottai,
Pudukottai District.

3)The Headmaster,
Government Higher Secondary School,
Sadayampatti,
Pudukottai District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-7660[F] dated
21/02/2020)

ORDER MADE IN
W.P(MD)No.1994 of 2011
DATED : 20.02.2020

NR(28.05.2020) 4P 5C