



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :12.03.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P (MD)No.8911 of 2011

and

M.P (MD)No.1 of 2011

K.Sekar

... Petitioner

vs.

1.The District Educational Officer,
School Education Department,
Kumbakonam,
Thanjavur District.

2.The Secretary,
Town Higher Secondary School,
Kumbakonam,
Thanjavur District.

3.The Head Master,
Town Higher Secondary School,
Kumbakonam,
Thanjavur District.

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the impugned charge memo issued by the second respondent in his proceedings Nil dated 29.07.2011 and quash the same as illegal.

For Petitioner

: Mr.B.Saravanan

For R-1

: Mr.C.Ramar,

Additional Government Pleader

For R-2 & R-3

: Mr.S.Balaraman

ORDER

This Writ Petition has been filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records relating to the impugned charge memo issued by the second respondent in his proceedings Nil dated 29.07.2011 and quash the same as illegal.

2. The brief facts of the case of the petitioner are as follows:



(i) the petitioner was appointed as Graduate Teacher in the year 1996 in the second respondent school and subsequently, in the year 2004, he was promoted to Post Graduate Teacher and he had been working in the said Post without any blemish. While so, in the year 2011, on 28.06.2011, Assistant Head Master of the school issued a charge memo stating that though Time Table of subjects was given to the petitioner, the same was returned by the petitioner to the Head Master with a letter which amounted to insubordination, indiscipline and non attending of classes was amounting to skipping duty. For which, the petitioner made a reply on 28.06.2011 to the third respondent denying the allegations made against him and further requested the third respondent to issue a revised time table of subjects based on the petitioner's seniority.

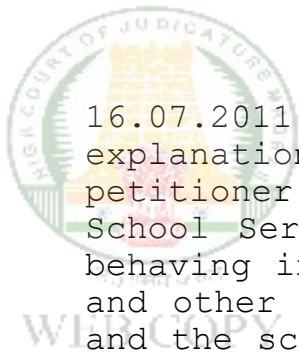
(ii) Subsequently, on 14.07.2011, the third respondent issued a letter directing the petitioner to approach the second respondent to explain his case. Subsequently, on 16.07.2011, the second respondent passed an order in proceedings No.383/2011-12 placing the petitioner under suspension on the ground that the explanation submitted by the petitioner was not satisfactory. Subsequently, on 21.07.2011, vide proceedings No.131/2011-2012, the petitioner was instructed to appear before the enquiry Committee and accordingly, the petitioner appeared before the said Enquiry Committee and explained his case. Subsequently, the second respondent issued the impugned proceedings alleging that the petitioner has been creating various problems from the year 2004 to 2011. Therefore, the petitioner was constrained to file this writ petition.

3. According to the learned counsel for the petitioner, the charge-memo issued by the second respondent is illegal since it is a well settled principle of law that before commencement of an enquiry, an Officer has to be appointed. He further submitted that the charge memo has been issued to the petitioner after enquiry without framing of any charges and further, the charge memo is in the form of second show cause notice, which is bad in law and hence, the same is liable to be set aside.

4. No counter affidavit has been filed by the respondents.

5. Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the first respondent.

6. It is seen from the charge memo that the petitioner was showing insubordination to the authorities concerned and was acting according to his whims and fancies and not conducting classes as per the time table and not obeying the order of the school management. All the explanations given by the petitioner are only to wriggled out from the charges framed and there is no proper explanation given by the petitioner. The petitioner was placed under suspension on



16.07.2011. During enquiry, the petitioner has given some explanation and from the said enquiry, it is clear that the petitioner was not showing interest in conducting the class as per School Service Conditions and he being the school teacher was not behaving in a manner, which will be followed by the school children and other teachers. The petitioner was working as a Maths teacher and the school being a prestigious school, wherein the great leader Mr.Ramanujam, who has excelled in mathematics studied and he being the Maths Teacher, he should have taken steps to follow the dignity and he has not followed the conditions and the advice given by the school Committee.

7. On 27.01.2004, he scolded the children in the examination hall in unparliamentary words and he has also given an apology letter and in the staff meeting, he himself has accepted the said mistake committed by him, but in the year 2011, he comes and says that signatures have been obtained by the school by force and thereafter, the Secretary of the school issued a charge memo stating that to show-cause as to why temporary suspension order cannot be made as dismissal order from service. No explanation has been given by the petitioner for further enquiry and in the light of the interim stay granted by this Court, the petitioner is continuing in the service.

8. This Court is of the view that the petitioner has to face the enquiry to prove his innocence and the enquiry to be conducted by the first respondent in the said management school. The petitioner and the respondent school are directed to furnish their evidences and they should let in evidences before the said authority and the enquiry should be initiated by the first respondent within a period of one month from the date of receipt of a copy of this order and from that day, there will be two months time granted to the authority. Hence, the entire process should be completed on or before 30th May, 2020.

With the above direction, the Writ Petition is disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

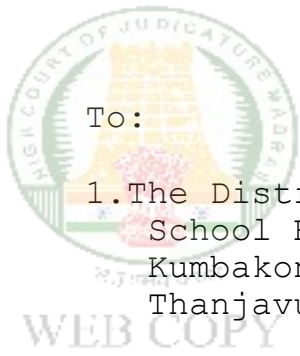
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Sub Assistant Registrar(CS)

pm

<https://hcservices.ecourts.gov.in/hcservices/>



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+1 CC to Mr.B.SARAVANAN, Advocate (SR-11556[F] dated 13/03/2020)

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MK (19.03.2020) 4P 5C