

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2021

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.17659 of 2007 and
M.P.No.1 of 2008

P.D.Ravi

... Petitioner

Versus

1. The Bishop and Manager of Diocese Schools
226, Cathedral Road,
Chennai.
2. The Correspondent
St.Andrew's Higher Secondary School,
Arakkonam,
Vellore District.
- 3.The Head Master
Saint Andrew's Higher Secondary School
Arakkonam,
Vellore District.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for all relevant records pertaining to the order of termination passed by the correspondent Saint Andrew's Higher Secondary School, Arakkonam, Vellore District, the 2nd respondent dated 14.07.2006 and quash the same and consequently direct the 2nd respondent to reinstate the petitioner into service with all monetary benefits.

For Petitioner : Mr.A.R.Suresh

For Respondents : Mr.FR.A.Xavier Arulraj

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O R D E R

This Writ Petition has been filed challenging the order of termination passed by the correspondent Saint Andrew's Higher Secondary School, Arakkonam, Vellore District, the second respondent herein, dated 14.07.2006 and quash the same and consequently direct the second respondent to reinstate the petitioner into service with all monetary benefits.

2. The learned counsel for the petitioner would submit that the petitioner was appointed as a part time vocational instructor on 01.02.2000. at St.Andrew Higher Secondary, School, Arakkonam, Vellore District through the Diocese Employment Recruitment Board. It is further submitted that the petitioner was qualified with Diploma in Mechanical Engineering, AMIE and MBA and as such he is fully qualified to be appointed as vocational instructor. He would further submit that the petitioner was appointed in the regular vacancy caused due to the retirement of one Mr.K.Muthukrishnan on 31.05.1999 on superannuation and thereafter the correspondent vide letter dated 28.02.2000 addressed to the second respondent requested to approve the appointment of the petitioner as vocational instructor and thereafter the Correspondent vide his letter dated 14.07.2000 also requested the same. The learned counsel further added that since the second respondent has not taken any action in this regard, the correspondent had again made representation on 03.01.2003 to the District Educational Officer, Cheyyar to approve the appointment and in the meantime, taking advantage of non approval of the petitioner's appointment, the Head Master, St.Andrew's Higher Secondary School, with ulterior motive and malafide intention to accommodate his sister's son to the above posts started giving problems in one way or other by issuing memos for simple reasons and baseless allegations, thereby compelling the petitioner to go out of employment from August 2004 onwards. It is further submitted that all of a sudden on 18.11.2004 the Head Master had removed his name from the attendance register without any notice, which is highly illegal, arbitrary, unreasonable and being violative of principles of natural justice and therefore left with no other alternative, the petitioner filed Writ Petition in W.P.No.2658 of 2005 seeking for a direction to the Joint Director of School Education to approve the appointment of the petitioner based on the proposal of the second respondent and consequently for a direction to the respondents to regularise his services from the date of his initial appointment. This Court by an order dated 06.04.2006 disposed of the Writ Petition with a direction to the Joint Director of School Education to consider the proposals sent by the second respondent on 28.02.2000 and 03.01.2003 and pass appropriate orders after giving an opportunity to the concerned within a period of eight weeks. It is further stated that subsequently, in order to take revenge on the petitioner, the third respondent had coercively colluded and obtained letters from the students who have completed the course during March 2005 itself and with the aid of some other staffs and teachers to take disciplinary action against the petitioner, consequently the second respondent herein had issued a charge memo on baseless allegations and unsustainable grounds vide proceedings

dated 03.06.2005. It is further stated that immediately on receipt of the said charge memo, the petitioner submitted his explanation on 09.06.2005 denying the charges framed against him. It is further contended that the second respondent under the guise of a resolution purported to be made by the Executive Committee, that was not satisfied with the explanations had appointed enquiry officers vide proceedings dated 07.10.2005. It is further submitted that the enquiry officer has acted in one sided manner from the beginning and even compelled him to withdraw the writ petition filed before this Court and therefore the petitioner made a representation to the second respondent praying him to change the enquiry officers on 09.01.2006 which was not at all considered by him. He would further submit that immediately the enquiry officers without affording further opportunity to cross examine the witnesses hurriedly concluded the enquiry on 11.01.2006 itself and given a finding that the charges levelled against the petitioner were proved vide their report antedating as 05.04.2006 and recommended the second respondent to impose punishment. It is further contended that having coming to know about the orders of this Court, the Executive Committee which met on 18.04.2006 agreed with the findings of the enquiry officers issued show cause notice to impose punishment vide the notice dated 19.04.2006. It is further submitted that thereafter the petitioner submitted a detailed explanation which was not at all considered by the second respondent and had imposed the punishment of termination from the services vide proceedings dated 14.07.2006. Challenging the same, the present Writ petition has been filed.

3. The learned counsel for the respondents would submit that based on the complaint received from the students and parents, enquiry was conducted and the enquiry officer extended all the opportunities to him. It is further stated that since the explanation offered by the petitioner was not satisfactory, the enquiry officers found that the charges levelled against the petitioner were proved and thereafter the matter was placed before the executive committee and since the explanation offered by the petitioner was not satisfied, considering the interest of the students the impugned order came to be passed and hence there is no merit in this Writ Petition.

4. Heard both sides. Perused the records.

5. Admittedly, the petitioner was initially appointed as a part time vocational instructor on 01.02.2000 and subsequently he was appointed in the regular vacancy caused due to the retirement of one Mr.K.Muthukrishnan on 31.05.1999 on superannuation and thereafter, the correspondent vide his letter dated 28.02.2000 requested the second respondent to approve the

appointment of the petitioner as vocational instructor and again vide his letter dated 14.07.2000, the correspondent requested the same, but due to some administrative reason they have not passed any final order. Therefore, the petitioner filed W.P.No.2658 of 2005 and this Court while disposing of the said writ petition on 06.04.2006 directed the first respondent to consider the proposals submitted by the third respondent dated 28.02.2000 and 03.01.2003 and pass appropriate orders after giving an opportunity to the concerned, within a period of eight weeks from the date of receipt of the copy of the said order. In the meanwhile, the petitioner was served with ChargeMemo and the enquiry officers were appointed and they found that the charges levelled against the petitioner were proved and the Executive Committee which met on 18.04.2006 agreed with the findings of the enquiry officers issued second show cause notice to impose punishment vide notice dated 19.04.2006 and the second respondent had imposed the punishment of termination from the services vide proceedings dated 14.07.2006. Though the petitioner stated that no opportunity was given and the same is in violation of the principles of Natural Justice, on a reading of the impugned order it is seen that based on the enquiry officers report, the disciplinary authority issued second show cause notice and called for further explanation and only after considering the explanation, impugned order of termination was passed, which is not in violation of principles of natural justice.

6. In view of the aforesaid reasons, there is no merit in this Writ Petition and the same is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Joint Director of School Education,
(Higher Secondary)
College Road,
Chennai-600 006.

+1cc to Mr.A.R.Suresh, Advocate SR.12830

W.P. No. 17659 of 2007

JP(CO)

CB(19/03/2021)