



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Writ Petition No.7244 of 2007
and M.P.Nos.1 and 2 of 2011

A.Ramasamy

...Petitioner

Vs

1. The District Educational Officer
Gobichettipalayam
Erode District

2. The Correspondent
St.Sebastian's High School
Nagalur
[Via]Anthiyur
Bhavani Taluk
Erode District

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying to issue a writ of Certioraified Mandamus calling for the records relating to Na.Ka.No.8057/A3/2005 dated 27.10.2005 on the file of the first respondent herein, quash the same and consequently direct the respondents herein to permit the petitioner to join duty as per the letter dated 19.01.2004 made by the second respondent herein with all consequential monetary benefits.

For Petitioners : Mr.V.Rajesh

For Respondents : Mr.P.Raja, Government Advocate for R1
Mr.FR.A.Xaviar Arulraj, for R2.

ORDER

The petitioner was appointed as Office Assistant in the Neelambal Subramanian Aided Higher Secondary School, Sooramangalm, Salem, on 09.11.1973. Thereafter, he was promoted as Record Clerk in 1976 and as Junior Assistant in 1983. The petitioner was served with a charge memo dated 03.02.2003 levelling two charges:-

(1) petitioner gave false promise to third parties promising them to get admission in Teacher Training Courses.



(2) petitioner was unauthorizedly absent from 29.01.2003.

2. According to the petitioner, he applied for leave from 29.01.2003 for 15 days. However, he was placed under suspension on 13.02.2003. Another charge memo involving him in issuance of forged transfer certificate was also issued and it is submitted that the petitioner could not submit explanation as the memos were not supported by any document. It is further averred that by proceedings dated 29.05.2003, the second respondent dismissed the petitioner from service with effect from 29.05.2003.

3. It is submitted by the petitioner that at his request for reinstatement, the second respondent reinstated him in service from 14.01.2004 but not allowed to join duty. The petitioner earlier filed W.P.No.4442 of 2005 for a direction to the respondent to permit him to join duty. The said writ petition was disposed of directing the petitioner to approach the first respondent. The petitioner made representation to the first respondent. By proceedings dated 29.04.2005, the first respondent approved the order of dismissal from service. The petitioner, again made representation to the first and second respondents dated 05.04.2006, 11.12.2006 and 08.01.2007 seeking for permission to join duty. However, by a letter dated 10.01.2007, the first respondent stated that petitioner's dismissal from service has already been approved and request for reinstatement has been rejected by an order dated 27.10.2005. Therefore, aggrieved by the orders of the first respondent, the petitioner has filed the present writ petition.

4. It is submitted by the learned counsel for the petitioner that for reinstatement, no approval is necessary and therefore, the impugned order is without any sanction of law and the reinstatement has been made long prior to the approval.

5. The first and second respondents filed counter affidavits. In the counter affidavit filed by the first respondent, it is submitted that the petitioner has not come before this court with clean hands as he suppressed his own hand written letter dated 10.01.2004 admitting the guilt pertaining to the charges levelled against him. The representations of the petitioner are duly replied by the 1st respondent and it is unfair to the school if he was allowed to continue.

6. It is submitted that as per the direction of this court in W.P.No.4442 of 2005, the 2nd respondent enquired regarding the



order of suspension and subsequent dismissal. The proceedings dated 07.03.2005 is a communication between the 1st respondent and the CEO, in respect of suspension, dismissal and subsequent events of Non-approval of reinstatement by the 2nd respondent, appeal to be filed by the petitioner.

7. It is also submitted that all the statutory benefits namely suspension salary, teachers provident fund savings, special provident fund including subscription and contribution were received by the petitioner. The acceptance of the terminal benefits by the petitioner itself is an acknowledgement of the petitioner that the dismissal orders was accepted by him. After dismissal from service, his reappointment did not accord with the rules.

8. In the counter affidavit filed by the 2nd respondent, it is stated that the petitioner by forging the signature of the then Head Master, fabricated a Pay Bill claiming arrears of salary of Rs.1,15,901/- for two teachers of the school. In the said document, not only the signature of the headmaster has been forged but also the signature of the District Educational Officer has been forged by the petitioner. The forged seal of the DEO has also been affixed in the fabricated pay bill. There was no response from the petitioner for the said two allegations dated 01.04.2003. In the Enquiry held, the petitioner abstained and the enquiry officer reported non cooperation of the delinquent employee and submitted report. When the first respondent rejected the plea of the petitioner to go on VRS vide proceedings dated 20.09.2004, the proposal to reinstate him at his request, was not acted upon. Therefore, the claim of reinstatement by the petitioner is misleading. The petitioner accepted the order of termination and received the monetary benefits. It is further stated that the petitioner cheated the management, cheated the employees of education department and the officers of the department by way of forgery, fabrication of documents and he himself has admitted his guilt and received the settlement and remained exparte for enquiry and thus abused the process of law and approached this court with unclean hands.

9. Heard both sides and perused the records.

10. The case of the petitioner is that while he was serving in the second respondent school, he was served with a charge memo dated 03.02.2003 levelling two charges that he gave false promise to third parties promising them to get admission in Teacher Training Courses and he was unauthorizedly absent from



29.01.2003. He was placed under suspension on 13.02.2003. Another charge memo involving him in issuance of forged transfer certificate was also issued. It is his further case that he could not submit explanation as the memos were not supported by any document. The second respondent, thereafter, dismissed him from service with effect from 29.05.2003. The petitioner's submission is that at his request for reinstatement, the second respondent reinstated him in service from 14.01.2004 but not allowed to join duty. He made representation to the first respondent. By proceedings dated 29.04.2005, the first respondent approved the order of dismissal from service. The petitioner, again made representation to the first and second respondents dated 05.04.2006, 11.12.2006 and 08.01.2007 seeking for permission to join duty. However, by a letter dated 10.01.2007, the first respondent stated that petitioner's dismissal from service has already been approved and request for reinstatement has been rejected by an order dated 27.10.2005.

11. The first and second respondent has rejected the plea of the petitioner for reinstatement holding that the petitioner forged the seal and signature of District Educational Officer and fabricated a pay bill and he has not cooperated in the disciplinary proceedings.

12. Admittedly, the petitioner did not submit any explanation to the charge memo and further he abstained from participating in the enquiry proceedings. The second respondent conducted the departmental proceedings in accordance with the rules and there is no violation of procedures contemplated under the Service Rules. The delinquency committed by the petitioner is a serious irregularity and the allegations against the petitioner are grave in nature. Further, the claim of reinstatement is not permitted as per Rules as the petitioner has already been terminated from service and the same has been approved by the 1st respondent. The petitioner also accepted the order of termination and received the statutory and monetary benefits given to him. Taking into consideration the serious irregularities committed by the petitioner, this court does not find any reason to take a lenient view and the petitioner does not deserve for reinstatement. Therefore, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar



nvsri

To

WEB COPY

The District Educational Officer,
Gobichettipalayam,
Erode District.

+1cc to Mr.V.Rajesh, Advocate, Sr.52960
+1cc to M/S.FR.A.Xaviar Arulraj, Advocate, Sr.52640
+1cc to the Government Pleader, Sr.52790

W.P.No.7244 of 2007

KSM[co]
NSK 28/10/2021