



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 28.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

W.P.No.22225 of 2008
and M.P.No.1 of 2008
(Through Video Conference)

V.Gnanamoorthy

...Petitioner

Vs

1) The Government of Tamil Nadu,
Rep. by Secretary,
School Education Department,
Fort St.George, Chennai 600 009

2) The Director of School Education,
College Road, Nungambakkam,
Chennai 600 006

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent bearing G.O.(1D) No.369 School Education (A2) Department, dated 13.11.2007 and quash the same.

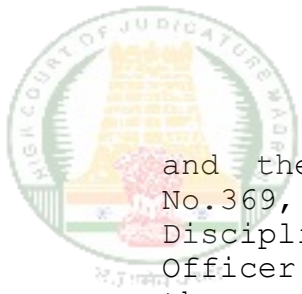
For Petitioner : No Appearance

For Respondents : Mr.C.Selvaraj,
Government Advocate

O R D E R

The petitioner was working as an Office Asistant in the office of the Assistant Elementary Educational Officer, Panchayat Union Elementary School, Sikalamthapuram, Rasipuram Taluk, Namakkal District. He was directed by the Asistant Elementary Educational Officer to work in his office for the purpose of preparing the bills and hundis.

2. A charge memo was issued against the Assistant Elementary Educational Officer under Rule 17(b) of the Disciplinary Appeal Rules. In that proceedings, the petitioner's name was also included for having assisted the Assistant Elementary Educational Officer. A common enquiry was conducted



and the State has passed a punishment order vide G.O.(1D) No.369, Education Department, dated 13.11.2007 being the Disciplinary Authority for the Assistant Elementary Educational Officer. The perusal of the entire records and the minutes of the enquiry report clearly shows that the petitioner has worked as per the orders of the superior.

3. The duties of the Office Assistant is only a minial work. He is not expected to work as a Clerk, preparing bills as well as submitting the hundis at the Treasury Office. From the evidence, it is also inferred that the Assistant Elementary Educational Officer has directed the petitioner to do the work in his office and in obedience to the order of his superior, the petitioner has carried out the work. Otherwise, he has nothing to do with the misconduct alleged against the Assistant Elementary Educational Officer. The findings of the Enquiry Officer mostly revolve around the misconduct committed by Assistant Elementary Educational Officer, and holds the charges proved. Incidentally, the charge against the petitioner was also held proved for dereliction of duty. In fact, this petitioner was not the competent person or holding the office of a clerk. He does not have the expertise or responsibility to discharge the functions of the concerned clerk. He obeyed the orders of the Superior and prepared the bills. As such, he cannot be made liable for not discharging the duties of the clerk. Therefore, for obeying the orders of the superior, the petitioner cannot be punished for the charge of misconduct, as such, is not proved against the petitioner, as he has no role or intention in committing this misconduct. Therefore, imposing the punishment of stoppage of increment for a period of two years with cumulative effect is not sustainable as against the petitioner. Therefore, this Court is inclined to setaside the order of punishment issued vide G.O.Ms.(1D) No.369 dated 13.11.2007 and accordingly, it is set aside.

4. In the result, the Writ Petition stands Allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

sts



To

1) The Secretary,
School Education Department,
Fort St.George, Chennai 600 009

2) The Director of School Education,
College Road, Nungambakkam,
Chennai 600 006

+1CC to Mr.Government Pleader, Sr.No.36918

Order made in
W.P.No.22225 of 2008

BP (CO)
K.RK. (03.09.2021)