



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 12023 of 2021
and W.M.P. No.12790 of 2021

C.Manivannan

.. Petitioner

Versus

- 1.State of Tamil Nadu,
Rep. by its Secretary,
School Education Department,
Fort St. George,
Chennai - 600 009.
- 2.The Director,
Directorate of Public Libraries,
No.737/1 Anna Salai, LLA Building,
Chennai - 600 002.
- 3.President, Visaka Committee,
District Library Officer,
Bangalore Road, Near New Bus Stand,
Krishnagiri - 635 001.
- 4.District Library Officer,
Cherry Road, Kumarasamipatti,
Salem - 636 007.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the fourth respondent bearing No.R.C. No.4926/A1/2020 dated 21.12.2020 and quash the same and consequently direct the respondents to restore the petitioner to duty forthwith with all monetary and service benefits.

For Petitioner : Mr. K.M.Ramesh

For Respondents : Mr. C.Kathiravan
Government Advocate



O R D E R

This Writ Petition is filed to quash the proceedings of the fourth respondent in R.C. No.4926/A1/2020 dated 21.12.2020 and consequently direct the respondents to restore the petitioner to duty forthwith with all monetary and service benefits.

2. Brief facts that are necessary for the disposal of this writ petition are as follows:

The petitioner states that he joined in the services of second respondent and is in employment since 15 years without any blemish. He further states that he became Librarian Grade - III and was posted to Thirumaal Managara Kilai (Branch) Library. It is the case of the petitioner that he was an active trade unionist and always working for the welfare of the employees and an active follower of late Indian President Dr.A.P.J.Abdul Kalam. The petitioner has submitted a complaint against three women employees. One of them was Librarian Grade-II and other two were Librarian Grade-III in Thirumaal Managara Kilai Library. The petitioner himself had an occasion to give a complaint against all the three for their unauthorized absence apart from other defects in their performance. It is in these circumstances, one of the employee gave a complaint against the petitioner as if the petitioner indulged in sexual harassment. It is also stated that the second respondent has directed the Visaka Committee headed by the third respondent and the fourth respondent as a member. The question is whether the impugned order of suspension based on the complaint against the petitioner has to be quashed or not.

3. According to the petitioner, the impugned order of the fourth respondent is purely based on a complaint dictated by the fourth respondent and signed by two of her subordinates. In the complaint, nobody was cited as a witness. The nature of complaint according to the learned counsel indicates that they were made for the purpose of embarrassing the petitioner. It is also the case of the petitioner's counsel that after the order of suspension was passed, despite passing of a few months, the petitioner has not been paid subsistence allowance and that the so called complainants have not even whispered about any allegation of sexual harassment in their reply / explanation to the notice issued to them on the basis of allegations the petitioner had levelled against the three complainants.

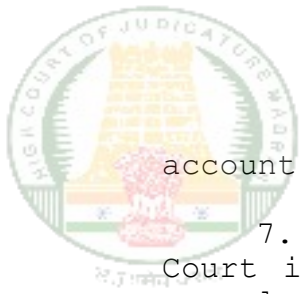
4. This Court is able to see that the first complaint lodged by the co-employees of the petitioner indicate that the allegations against the petitioner were not regarding any sexual harassment but about the unnecessary pressure given to the complainant by the petitioner in connection with their



employment. The petitioner, as a matter of fact, pointed out the irregularities committed by the complainants during their duty period. The complaint was lodged on 08.12.2020. Based on the complaint against the three co-employees who have given complaint against the petitioner, the complainants have given their representations / explanations. Even in their explanations, they have not whispered anything regarding misbehaviour of the petitioner. In short, there is no allegation of sexual harassment. It is also important to note that the complaint of sexual harassment has appeared in the course in later point of time and absolutely there is no material or witness regarding allegation of sexual harassment against the petitioner. Going by the sequence of events and the conduct of co-employees, this Court is unable to believe the version of the fourth respondent on the basis of the complaint lodged by the co-employees of the petitioner.

5. It is to be noted that the complainants have made serious allegations against the petitioner in their representation dated 14.12.2020. Even in the said representation there was no allegation against the petitioner for sexual harassment. It is now admitted by both the counsel that an enquiry has been commenced and the petitioner has already participated in the enquiry. A report also has been drawn by the Visaka Committee in terms of the directions of the Hon'ble Supreme Court. Though learned counsel appearing for the petitioner specifically alleges mala fides against the fourth respondent who was instrumental in getting complaints from the three women employees against whom the petitioner has given official complaints, this Court cannot ignore the case pleaded by the petitioner in the affidavit and the reply affidavit. An order of suspension pending or in contemplation of enquiry is certainly a viable course by which the employee will be kept away from service. In this case, the specific allegation against the petitioner by three of women employees cannot be justified unless there is a positive statement by any other person who has witnessed any such sexual harassment as alleged by the complainants.

6. Though this Court prima facie is of the view that the complaint must be vexatious and surfaced to embarrass the petitioner, is not inclined to prejudge the enquiry. Having regard to the overall circumstances and the sequence of events, this Court is of the view that the complaint against the petitioner came as a surprise only in response to the complaint given by the petitioner against his co-employees. It is to be noted that the respondent organisation ought to have conducted a preliminary enquiry at least to confirm the veracity of the statements made by the co-employees before proceeding against the concerned person who was already put to untold sufferings on



account of such complaint.

7. From the various representations and complaints, this Court is unable to find any explanation for not mentioning any sexual harassment against the petitioner in the initial representations / complaints made by the co-employees of the petitioner. In such circumstances, this Court is of the view that temporary suspension during the pendency of the disciplinary proceedings will be unfair. Therefore with a liberty to the respondents to proceed against the petitioner, this writ petition is allowed and the impugned order passed by the fourth respondent in R.C. No.4926/A1/2020 dated 21.12.2020 is hereby set aside. No costs. Consequently, connected miscellaneous petition is closed. The respondents are directed to disburse the subsistence allowance to the petitioner in terms of the rules and reinstate the petitioner within a period of one week from the date of receipt of a copy of this order. The respondents are at liberty to expedite the disciplinary proceedings. The whole enquiry should be conducted within a period of three months from the date of receipt of a copy of this order. The respondents shall ensure the whole proceedings to be concluded within the time stipulated by this Court. It is also open to the respondents to give an alternative employment or transfer the petitioner to some other place which is not far away from the present place so that he will participate in the enquiry to save his employment.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary,
School Education Department,
Fort St. George,
Chennai - 600 009.
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Directorate of Public Libraries,
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4.The District Library Officer,
Cherry Road, Kumarasamipatti,
Salem - 636 007.

+lcc to Government Pleader SR No.35000

+lcc to Mr.K.M.Ramesh, Advocate SR No.34302

W.P.No.12023 of 2021

RLD (CO)
PR (19/08/2021)