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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.15369 of 2020
and
WMP.Nos.19225 & 19227 of 2020

A.K.Malarvizhi

... Petitioner

Vs.

1.The Joint Director,
Directorate of School Education,
DPI Campus, Chennai-600 006.

2.The Chief Educational Officer,
Vellore District, Vellore.

3.The District Educational Officer,
Vellore.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the second respondent in Na.Ka.No.4608/A3/2019 dated 29.09.2020, consequential order appointing the second respondent as the enquiry officer in Na.Ka.No.4608/A3/2019 dated 29.09.2020 (received on 12.10.2020) and quash the same on the ground of lack of jurisdiction.

For Petitioner : Mrs.Dakshayani Reddy

For Respondents: Mr.K.V.Sajeev Kumar,
Government counsel

O R D E R

The present Writ Petition is heard through Video Conferencing today.

2. For the delinquency that occurred during the evaluation of the answers script for the March 2019 examination in regard to the difference of 10 marks with respect of one paper, the petitioner herein was levelled with the charges under 17(a) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules (hereinafter referred to as the 'Rules') on 22.08.2019. Pursuant



to the petitioner's explanation, the petitioner was imposed with the punishment of stoppage of increment for a period of one year with cumulative effect through an order dated 04.11.2019. The present Writ Petition has been filed, challenging the subsequent charge memo dated 29.09.2020, wherein the respondents had invoked Rule 17(b) of the Rules for the very same set of charges for which the petitioner was earlier imposed with a punishment on 04.11.2019.

3. The learned counsel for the petitioner produced the copy of the proceedings of the Chief Educational Officer, Vellore District in Mu.Mu.No.3873/A3/2020 dated 20.11.2020, wherein one of the co-delinquent namely, C.Sarathy Verman, who is also similarly placed as that of the petitioner herein and who was earlier proceeded with under Rule 17(a) of the Rules and imposed with the punishment of stoppage of increment for a period of one year with cumulative effect on the same date i.e., on 04.11.2019, was subsequently dealt with under Rule 17(b) of the Rules and was awarded with the punishment of censure. The submission of the learned counsel is that since the charges against the co-delinquent case is also similar to that of the petitioner, the respondents herein are mandated to impose a similar punishment of censure to the petitioner herein also, to which punishment, the petitioner is agreeable. The submission of the learned counsel for the petitioner seems to be acceptable.

4. Even assuming that the petitioner herein is proceeded under Rule 17(b) of the Rules and in case, the charges against the petitioner is found to be proved, the respondents may have to impose the maximum punishment of censure, as adopted by them in the case of the co-delinquent C.Sarathy Verman, since the facts of the case and the charges of both the petitioner and this co-delinquent, are one and the same.

5. However, this Court may not be justified in stepping into the shoes of the respondents and award the punishment. Nevertheless, if the respondents are directed to consider the request of the petitioner, in this regard within a stipulated time, the ends of justice could be secured and the ground of discrimination may not arise.

6. In this background, the petitioner is granted liberty to approach the second respondent herein, with appropriate representation, seeking for dispensing with the enquiry and imposition of punishment on par with the co-delinquent, namely, in the case of C.Sarathy Verman as per the proceedings in Mu.Mu.No.3873/A3/2020, dated 20.11.2020, within a period of two weeks from the date of receipt of a copy of this order and on receipt of such a representation, the second respondent shall



consider the same in the light of the observations made by this Court and pass appropriate orders in accordance with law, within a period of two weeks from the date of receipt of such representation.

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7. With the above observations and direction, the Writ Petition stands disposed of. Consequently, the connected Miscellaneous Petitions are closed. There shall be no orders as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

DP

To

- 1.The Joint Director,
Directorate of School Education,
DPI Campus, Chennai-600 006.
- 2.The Chief Educational Officer,
Vellore District, Vellore.
- 3.The District Educational Officer,
Vellore.

+1cc to Mr.Dakshayani Reddy, Advocate, S.R.No.34553

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RSV(CO)
SB(09/08/2021)