



W.A.No.2718 of 2021 and
C. M.P.Nos. 7529 of 2013

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2021

CORAM :

**THE HON'BLE MR. JUSTICE M.DURAI SWAMY
AND
THE HON'BLE MR. J. SATHYA NARAYANA PRASAD**

W.A.No.2718 of 2021 and

C.M.P. No.17698 of 2021

1. The Govt. of Tamilnadu,
Rep.by the Secretary to Government,
School Education Department,
Secretariat, Chennai.

2. The Director of School Education,
College Road, Chennai -600 006.

3. Joint Director (Personnel)
College Road, Chennai -6.

.. Appellants

v.

L.Girinivasan

.. Respondent

Appeal filed under Clause 15 of Letters Patent against the order dated 28.10.2020 made in W.P.No.4745 of 2015 on the file of this Court.



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For Appellants : Mr. J. Ravindran, AAG
Assisted by Mrs.S.Mythreye Chandru
Special Government Pleader

For Respondents : Mr. V. Prakash, Senior Counsel
for Mr. S.N. Ravichandran

JUDGMENT

(Judgment of the Court was made by M.DURAISWAMY,J.)

Challenging the order passed in W.P.No.4745 of 2015, the respondents in the Writ Petition have filed the above Writ Appeal.

2. The respondent filed the Writ Petition to issue a Writ of Certiorarified Mandamus to call for the records on the file of the 1st appellant in connection with the orders dated 20.08.2013 and 18.11.2014 and directing the respondents to give all the monetary and services benefits with effect from the date of promotion given to his juniors.

3.1 It is the case of the respondent-writ petitioner that he was selected for appointment to the post of Junior Assistant by way of



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Compassionate Appointment and joined service in the year 1981 and subsequently, he was promoted as Assistant in the year 1994 and as Superintendent in the year 2001. He joined as Superintendent in the office of District Project Coordinator, Vellore on 01.02.2008 and worked in the said office till 28.05.2008. Thereafter, he was transferred as Superintendent in the office of Chief Educational Officer, Vellore. Based on the allegations published in the newspaper, the Government has passed G.O.Ms.No.385 dated 01.12.2008, directing to take disciplinary action under Rule 9(a) of Tamil Nadu Civil Service (D&A) Rules against the respondent-writ petitioner along with other five officers, who were involved in misappropriation relating to disbursement of Travelling Allowances to the Teacher Trainee in the office of the District Project Coordinator, Vellore District. Pursuant to the order of the Government, the 2nd appellant, by his proceedings dated 18.02.2008, framed charges against the respondent-writ petitioner under Rule 17(b) of the Rules by framing five charges against the individuals. The charges against the respondent-writ petitioner was that the Travelling Allowances statement was not approved by the District Project Coordinator and the



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acknowledgements were not obtained from the concerned teachers who received money.

3.2 The respondent-writ petitioner contended that he was not responsible for the procedure in disbursement of the Travelling Allowance to the Teachers concerned, and he had only followed the instructions of his Superiors, i.e., the Superintendent in the office of the Chief Educational Officer, Vellore. The respondent-writ petitioner gave his explanation to the charges framed against him, however, finding not satisfied, departmental enquiry was initiated against him. However, in the enquiry, there was neither oral evidence nor any document was marked on the side of the appellants.

3.3 The Enquiry Officer submitted his report on 31.05.2011 holding that the respondent-writ petitioner guilty of charges. Pursuant to the report submitted by the Enquiry Officer, a further show cause notice dated 30.06.2011 was issued annexing copy of the Enquiry Report and the respondent-writ petitioner was directed to submit his



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explanation. Accordingly, the respondent-writ petitioner submitted his explanation on 18.07.2011. The 1st appellant, not being satisfied with the explanation given by the respondent-writ petitioner, imposed a punishment of stoppage of increment for a period of 2 years with cumulative effect, by his order dated 20.08.2013. The Review Petition filed by the respondent-writ petitioner was also rejected by the 1st appellant.

4. On a perusal of the materials available on record, it is clear that the appellants have neither let in oral evidence nor produced any documents to prove the charges framed against the respondent-writ petitioner. On a perusal of the Enquiry Report also, it is clear that the appellants did not produce any oral or documentary evidences at the time of enquiry. In spite of the failure committed by the appellants in letting in oral or documentary evidences, the Enquiry Officer, erroneously found the respondent-writ petitioner guilty of all charges. In other words, the Enquiry Officer only based on the charges framed against the respondent-writ petitioner, without any corroborative evidence, found the



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respondent-writ petitioner guilty of all the charges. The 1st appellant based on the said report, had imposed the punishment of stoppage of increment for 2 years with cumulative effect. In the absence of any oral or documentary evidence let in by the appellants, the Enquiry Officer should not have found the respondent-writ petitioner guilty of the charges and also the 1st appellant should not have imposed the punishment of stoppage of increment for 2 years with cumulative effect.

5. The learned Single Judge, taking into consideration all these aspects, rightly set aside the impugned order passed by the appellants 1 and 2. We do not find any ground to interfere with the order passed by the learned Single Judge. The Writ Appeal is devoid of merits and the same is liable to be dismissed. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

[M.D., J.] [J.S.N.P., J.]

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Index : Yes/No
Speaking Order/Non Speaking Order
Rj



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