



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 22.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.Nos.24873 & 25147 of 2019
and
W.M.P.Nos.24493 & 24709 of 2019

T.Thirugnanam ...Petitioner in both cases

Vs

1.The State of Tamil Nadu,
Rep.by its Secretary,
Adi Dravidar and Tribel Welfare
Department,
Fort St.George,
Chennai-600 009.

2.The Director of Adi Dravidar Welfare,
Chepauk,
Chennai-600 005. ...Respondents in both cases

Prayer in W.P.No.24873 of 2019: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records made in Na.Ka.No.0.1/847/2017 dated 20.11.2017 on the file of Director of Adi-Dravidar and Tribel Welfare Department, Chennai-5 the second respondent herein and confirmed the order made in G.O. (3.D) No.3, dated 17.06.2019 passed by the Secretary to Government, Adhidraavidar and Tribel Welfare Department, Chennai-9 the first respondent herein and quash the same as illegal and direct the respondents to re-instate the petitioner forthwith to secure the ends of justice.

Prayer in W.P.No.25147 of 2019: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records made in impugned suspension order R.C.No.11/847/2017 dated 01.02.2017 passed by the Director of Adi Dravidar Welfare, Chennai 600 005 the second respondent herein and quash the same as illegal and direct the respondents to re-instate the petitioner as Second Grade Warden to secure the ends of justice.



(in both cases)

For Petitioner : Mr.R.Sankarashubbu
For Respondents : Mr.K.V.Sajeev Kumar,
Government Counsel

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COMMON ORDER

By consent of both the parties, these writ petitions are taken up for final disposal.

2. The petitioner herein, while serving as a B.T.Assistant and posted as a Warden in the Government Boys Hostel, Sethiathoppu on 10.10.2014, was levelled with four charges under Section 17(b) Tamil Nadu State Subordinate Disciplinary Appeal Rules. Pursuant to the charge memo, the petitioner has submitted his explanation on 06.03.2017 and after conducting an enquiry, the enquiry officer had filed his report on 12.04.2017 holding that charge Nos.1, 3 & 4 are proved and charge No.2 has not been proved. Subsequent to the proved charges, the disciplinary authority had imposed a punishment of reduction in rank as a Secondary Grade Warden commencing from 20.11.2017 to 19.11.2019. The appeal preferred by the petitioner against the punishment before the first respondent herein, was rejected on 17.06.2019. The petitioner challenges the order of punishment in W.P.No.24783 of 2019. In the mean time, the petitioner was placed under suspension which order has been challenged in W.P.No.25147 of 2019.

3. The ground raised by the learned counsel for the petitioner is that after the petitioner had rendered his explanations to the charges, there was no enquiry conducted and hence, the proved charges are on the basis of no evidence.

4. On the contrary, the learned Government Counsel placed reliance on the counter affidavit filed by the respondent and submitted that, pursuant to the petitioner's explanation dated 06.03.2017, an Enquiry Officer was appointed and due enquiry was conducted. Pursuant to the enquiry, the report was also filed on 12.04.2017. It is his further submission that though the petitioner was imposed with a punishment and no interim orders were passed by this Court, the petitioner had not joined as a Secondary Grade Teacher pursuant to the impugned punishment.

5. It is the further submission of the learned Government Counsel that the order of suspension was revoked and the petitioner was appointed as Secondary Grade Teacher, through the proceedings dated 20.11.2017 and the copy of the order was served on the petitioner on 30.11.2017. In spite of the same, the



petitioner did not joint duty as a Secondary Grade Teacher till date. The Commissioner of Adi Dravidar and Welfare Department, Chepauk, had filed a counter affidavit in which it is categorically stated that the respondents had appointed an enquiry officer pursuant to the charge memo and after consideration of the explanation given by the petitioner, an enquiry officer was appointed who had conducted due enquiry. Based on the findings of the enquiry officer, charge Nos.1,3 and 4 were held to be proved while charge No.2 was held as not proved.

6. I have no reason to disbelieve the averments made in the counter affidavit, particularly when the petitioner has not established otherwise as to non-conduct of an enquiry. Thus, there is no irregularity in procedure of conducting the departmental action by the respondents against the petitioner.

7. The petitioner was imposed with a punishment of reduction of rank to the post of Secondary Grade Warden for a period of two years commencing from 20.11.2017 to 19.11.2017. On 20.11.2017, the order of suspension issued against the petitioner was revoked. It is stated that even though the order of suspension was revoked and the punishment was in force, the petitioner did not join at the reduced rank of Secondary Grade Warden.

8. It is needless to point out that after the period of two years of suspension, the petitioner would be entitled to revert back to his original post of Secondary Grade Teacher. While the learned counsel would state that the respondent has not issued orders to permit him to join as B.T. Warden, the respondent would submit after the order of revocation, the petitioner was not reverted and he neither joined in the post of Secondary Grade Teacher nor he had reported for duty till date, which fact was disputed by the learned counsel for the petitioner.

9. This Court does not intend to go into the disputed facts. Nevertheless, the position remains that after 19.11.2019, the petitioner is entitled to be reverted back to the original post of B.T. Assistant, since the punishment of reduction of rank had came to an end. If at all the respondents are of the view that he did not serve the two years punishment between 20.11.2017 and 19.11.2019, the same would amount to another misconduct for which it is always open to the respondent to initiate disciplinary action against him. However, they cannot now deny the petitioner from serving as a B.T.Assistant after 19.11.2019.

10. Insofar as the suspension order is concerned, it is stated that the order of suspension was revoked and the petitioner was reinstated back in his service through the



proceedings of the respondents dated 20.11.2017, which was also served on the petitioner on 30.11.2017. As such, the prayer in W.P.No.25147 of 2019 has become infructuous.

11. Insofar as the prayer in W.P.No.24873 of 2019 is concerned, it is hereby declared that since the punishment imposed on the petitioner on 20.11.2017, reducing the petitioner's rank to the post of Secondary Grade Warden, has come to an end, the petitioner would be entitled to be reverted back to his original post of B.T.Assistant. In this connection, liberty is hereby granted to the petitioner to approach the respondent seeking necessary orders for the post of B.T.Assistant. On receipt of such request, the respondent shall consider the request and issue the posting orders within a period of one (1) week from the date of receipt of a copy of this order. If the respondents are of the view that the petitioner has not reported to duty pursuant to the punishment imposed, it is open to them to proceed against him departmentally.

12. The present writ petitions stand disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sbn

To

1.The Secretary,
The State of Tamil Nadu,
Adi Dravidar and Tribel Welfare Department,
Fort St.George,
Chennai-600 009.

2.The Director of Adi Dravider Welfare,
Chepauk,
Chennai-600 005.

+2ccs to Mr.R.Sankara Subbu, Advocate (SR No.35050)
+2ccs to the Government Pleader (SR Nos.35565 & 35566)

W.P.Nos.24873 & 25147 of 2019
and
W.M.P.Nos.24493 & 24709 of 2019

SSV (CO)
PR (18/08/2021)