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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.No.7030 of 2017
and
W.M.P.No.7658 of 2017

D.Sahila Jancy

...Petitioner

Vs

1. The State Commissioner,
Commissionerate of the Differentially Abled,
K.K.Nagar, Chennai-600 078.
2. The District Differentially
Abled Welfare Officer,
DMS Campus,
Teynampet, Chennai-600 018.
3. The Correspondent
CSI Higher Secondary School for the Deaf,
12, Santhome High Road,
Mylapore, Chennai- 600 004.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records pertaining to the impugned dismissal order dated 28.02.2017 issued by the 3rd respondent and quash the same and consequently, directing the 3rd respondent to reinstate the petitioner in service with entire backwages, continuity of service and all other attendant benefits.

For Petitioner : Mr.J.Selvarajan

For R1 & R2 : Mr.K.V.Sajeev Kumar
Government Counsel

For R3 : Mr.L.Chandrakumar
for Mr.K.Shivashanmugam



ORDER

By consent of both the parties, this writ petition is taken up for final disposal.

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2. The petitioner herein, pursuant to certain charges levelled against her by the third respondent Management, was dismissed from services on 03.03.2017. The claim of the petitioner is that the charges itself cannot be sustained, since the cause of death of the student had no relevance to the incident alleged in the charge memo. It is also the case of the petitioner that the student had died after a period of 1 year, owing to other medical ailments, which is in no way related to the allegations made in the charge memo.

3. In this connection, when the petitioner herein had approached the third respondent seeking for a lenient view and consequently reinstate her into service, the third respondent had agreed to reinstate the petitioner on the condition that she would be transferred to some other School within their management. The offer made by the management has now been produced in the form of an affidavit dated 22.07.2021 filed by the petitioner before this Court.

4. The learned Government Counsel appearing for the first and second respondents submitted that the offer and acceptance between the petitioner and the third respondent may not be binding on the official authorities and it is for the official respondents to take a final decision on the issue involved in the present case.

5. The petitioner herein was already subjected to a disciplinary enquiry and thereafter, the punishment of dismissal from services was imposed on 28.02.2017. If at all this punishment is to be interfered with, it would be the official respondents herein, who may have the power to do so. A mere offer and acceptance by the petitioner and the third respondent may not be sufficient to modify the punishment of dismissal.

6. However, by taking into consideration of all the grounds raised by the petitioner, questioning the charges itself, this Court is of the view that if the third respondent is directed to submit a proposal to the first respondent with regard to the offer made by the petitioner for reconsideration and with a consequential direction to the first respondent to



consider such a proposal within a stipulated time, the ends of justice could be secured.

7. In the light of the above observations, the petitioner is granted liberty to give a written requisition to the third respondent herein ventilating her grievances and on receipt of such a request, it would be open to the third respondent herein to send a proposal to the first respondent herein, expressing the grievance of the petitioner, as well as on the punishment imposed by them through the order dated 28.02.2017. On receipt of such a proposal, the first respondent shall independently consider the same, without reference to the earlier enquiry report, as well as the consequential punishment order dated 28.02.2017 imposed by the third respondent, and pass appropriate orders, on its own merits and in accordance with law, atleast within a period of 12 weeks from the date of receipt of such proposal from the third respondent. Depending on such final outcome of the orders to be passed, the first respondent would be at liberty to modify/approve or reject the proposal on the punishment order dated 28.02.2017.

8. The writ petition stands disposed of, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

// True Copy//

Sub Assistant Registrar

hvk

To

1. The State Commissioner,
Commissionerate of the Differentially Abled,
K.K.Nagar,
Chennai-600 078
2. The District Differentially
Abled Welfare Officer,
DMS Campus,
Teynampet,
Chennai-600 018.



3. The Correspondent
CSI Higher Secondary School for the Deaf,
12, Santhome High Road,
Mylapore,
Chennai- 600 004

+2ccs to Mr.J.Selvarajan, Advocate, S.R.No.36162
+1cc to the Government Pleader, S.R.No.36294

W.P.No.7030 of 2017
and
W.M.P.No.7658 of 2017

GPL (CO)
SU (23/08/2021)