



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD)No.6551 of 2020

and

W.M.P (MD) Nos.5898, 5899 of 2020 & 2985 of 2021

WEB COPY

K.Paulraj

... Petitioner

versus

1.The State of Tamil Needy,  
Represented by its Secretary,  
Department of School Education,  
Fort St. George,  
Chennai-9.

2.The Director of School Education,  
College Road,  
Chennai-6.

3.The Joint Director (Personnel)  
Directorate of School Education,  
College Road,  
Chennai-6.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the enquiry report issued by the third respondent in his proceedings Nil, dated 06.11.2019 and quash the same as illegal and consequent direction may be issued to the respondents to drop the departmental proceedings initiated on the charge memo in Na.Ka.No.7477/A1/E5/2019-2, dated 03.06.2019.

For Petitioner : Mr.T.A.Ebenezer  
For Respondents : Mr.R.Baskaran  
Additional Advocate General  
Assisted by  
Mr.V.Nirmal Kumar,  
Government Advocate

**ORDER**

This writ petition has been filed challenging the Enquiry Report issued by the third respondent in his proceedings Nil, dated 06.11.2019.

2. The learned counsel for the petitioner submitted that initially the petitioner was appointed as Junior Assistant on 10.09.1981 at Government High School, Pullukattuvalasi, Mathalamparai, Tenkasi. He was promoted as Assistant on 21.01.1994



and posted at District Educational Office, Tenkasi. He was further promoted as Superintendent from 30.03.2001 and thereafter, promoted as Personal Assistant to District Elementary Educational Officer, Tirunelveli from 05.12.2011. Thereafter, he was transferred to the District Educational Office, Cheranmahadevi, Tirunelveli District on 25.10.2016. He was further promoted as Bursar and posted in District Institute of Education and Training, Munanjipatti, Tirunelveli District from 03.08.2018. When he was to attain superannuation on 03.06.2019 and to retire on 30.06.2019, the second respondent issued charge memo in his proceedings in Na.Ka.No.7477/A1/E5/2019-2, dated 03.06.2019 by framing 10 charges against the petitioner and another three Government Servants.

3. He further submitted that the core charges revolve around the petitioner is that he helped to get approval for three Teachers namely Mrs.J.Elizabeth Paulin, Mrs.D.Esther Mary Christy and Mrs.A.Ananthi appointed by the management under direct payment in Concordia Higher Secondary School, Valliyoor, without upgrading the Secondary Grade Teacher post to BT Assistant, without following subject roster and helped to release the grant to the said teachers. In the relevant point of time, the petitioner was serving as Personal Assistant to the District Educational Officer, Cheranmahadevi. He was neither the appointing authority nor the approving authority. He was only subordinate to the approving authority. He cannot be held responsible for the approval given by the District Educational Officer, even if the approval is taken as illegal. The third respondent/enquiry officer had not conducted any examination of witnesses and no one represented on the side of the Government. Simply by obtaining the questionnaire, he closed the enquiry and issued Enquiry Report. The Enquiry Officer acted himself as Government Side witness. Even though no one represented on behalf of the Government, the Enquiry Officer has given findings on his own knowledge. He discussed himself and issued findings. Therefore, the petitioner has come forward with this writ petition to quash the Enquiry Report.

4. The learned Additional Advocate General appearing for the respondents submitted that only Enquiry Report has been issued by the second respondent and after completing the enquiry, final decision will be taken by the competent authority and even before taking the final decision in the enquiry, the petitioner has filed the present writ petition and it is in premature stage. He would further submit that in view of the interim direction issued by this Court, dated 09.06.2020, the Department is not in a position to conclude the disciplinary proceedings. He would further submit that the petitioner is also having a right to submit his explanation to the Enquiry Report in the second show cause notice and the competent authority can take a decision in accordance with law based on the available materials.



5. This Court paid its anxious consideration to the rival submissions made and also perused the materials placed on record.

6. It is seen from the records that this petitioner was posted in the District Institute of Education and Training, Munanjipatti, Tirunelveli on 03.08.2018 and he was due to retire by superannuation on 30.06.2019. At the verge of his retirement, charges have been framed as against him and enquiry has also been contemplated. The major charge, according to the petitioner is that when he was working as Personal Assistant to the District Educational Officer, Cheranmahadevi, he helped to get approve for three Teachers, illegally.

7. The petitioner has raised several grounds that he is not the authority to either appoint or approve the Teachers and as to the non-examination of any witnesses from the Department side. Be that as it may, what has been now challenged before this Court is an Enquiry Report. For this Enquiry Report, the petitioner has to give his reply/version and on considering the same, the authority concerned shall either proceed further or close the proceedings. Based on the outcome of the enquiry proceedings, he can workout his remedy in the manner known to law, if he so advised. This writ petition, at this stage, is premature.

8. Therefore, this Court, without expressing any opinion on the claim made by the petitioner, directs the competent authority ie., the respondents to consider the reply, if any, filed by the petitioner as against the Enquiry Report and also considering the proceedings of the Director of School Education and thereafter pass orders on merits and in accordance with law, as expeditiously as possible, within a period of one month from the date of receipt of a copy of this order.

9. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

am

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant



To

- 1.The Secretary,  
Department of School Education,  
Fort St. George,  
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- 2.The Director of School Education,  
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Chennai-6.
- 3.The Joint Director (Personnel)  
Directorate of School Education,  
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+1 CC to M/s.SPL GP ( SR-35630[F] dated 24/11/2021 )

W.P(MD)No.6551 of 2020  
23.11.2021

KM(CO)

GC(03.12.2021) 4P 5C