



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD)No.1092 of 2020

J.R.Clement Regis

... Appellant/Writ Petitioner

Vs.

1.The District Elementary Educational Officer,
District Elementary Educational Office,
Tirunelveli,
Tirunelveli District.
Now re-designated as
The District Educational Officer,
District Educational Office,
Thenkasi,
Thenkasi District.

2.The Assistant District Elementary Educational Officer,
Senkottai,
Tirunelveli District.
Now re-designated as
The Block Educational Officer,
Block Education Office,
Senkottai, Thenkasi District.

... Respondents/Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Act against the order passed by this Court in W.P.(MD)No.2839 of 2013, dated 18.09.2019.

For Appellant

: Mr.D.Sasikumar

For Respondents

: Mrs.S.Srimathy

Special Government Pleader

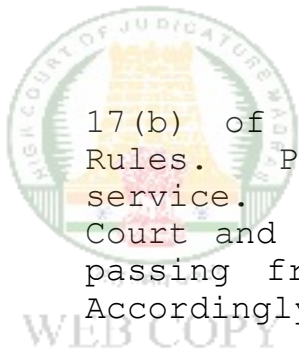
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J U D G M E N T

(Judgment of the Court was delivered by M.M.SUNDRESH, J)

This appeal has been preferred by the appellant challenging the order of the learned Single Judge, by which, a partial relief has been given, by modifying the impugned order passed by the first respondent, dated 06.07.2012.

2.The appellant was working as a Secondary Grade Teacher. Proceedings were initiated against him by framing charges under Rule



17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Pursuant to the enquiry conducted, he was removed from service. The order of dismissal was set aside by the order of this Court and the matter was remitted back to the first respondent for passing fresh orders only in respect of quantum of punishment. Accordingly, the impugned order was passed.

3.Once again, the said order was challenged by the appellant before the learned Single Judge in W.P.(MD)No.2839 of 2013. The learned Single Judge upon considering the relevant materials including the nature of charges framed, was pleased to modify the punishment imposed by holding that the misconduct is only negligence. Accordingly, the order of punishment has been modified as to one of stoppage of increment for a period of three years without cumulative effect. Not being satisfied with the said order, the present appeal is filed.

4.The learned counsel appearing for the appellant submitted that the co-delinquent has been imposed with a lesser punishment.

5.We are afraid that the same cannot be a ground to interfere with the order of the learned Single Judge. The charges against the appellant is different from the co-delinquent. This Court remitted the matter back on the earlier occasion only by taking note of the doctrine of proportionality, as it was found that the punishment imposed was inconsonance with the findings given earlier on the misconduct of the appellant. Once again the order was modified by holding that the misconduct being negligence, the punishment imposed under the impugned order requires to be modified. Therefore, the appellant has already got the benefit of discretion. This Court on more than one occasion held that it cannot be assumed that the charges against the appellant are not true. The order passed by this Court has become final. In such view of the matter, the charges themselves being different as against the appellant and that of the co-delinquent / 3rd party, whose punishment is sought to be compared, we do not find any reason to interfere with the order of the learned Single Judge, as more leniency has already been shown to the appellant.

6.Accordingly, this Writ Appeal is dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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 concerned.

To

- 1.The District Elementary Educational Officer,
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+1 CC to M/s.GP (SR-247[F] dated 06/01/2021)

W.A. (MD)No.1092 of 2020
04.01.2021

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