



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON:	22.02.2021
DELIVERED ON:	01.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.2075 of 2018

and W.M.P. (MD) No.2330 of 2018

(Through Video Conference)

WEB COPY

C.Muthukumar,
Head Master,
Panchayat Union Middle School,
Pathinalamperi,
Manur Union,
Thirunelveli District - 627 359

... Petitioner

Vs.

- 1) The State of Tamil Nadu,
Rep. By its Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009
- 2) The Joint Director of
Elementary Education (Administration),
College Road, Chennai 600 006
- 3) The District Elementary Educational Officer,
O/o the District Elementary Educational Office,
Tirunelveli-1,
Tirunelveli District.
- 4) The Additional Assistant
Elementary Educational Officer,
O/o the Additional Assistant Elementary
Educational Office,
Manur @ Rastha, Tirunelveli - 627 201,
Tirunelveli District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings ந.க.எண்.12611/124/2017 dated 30.11.2017 confirming the order passed by the 3rd respondent in his proceedings ந.க.எண்.1290/அ2/2016 dated 13.01.2017 and quash the same as illegal.

For Petitioner	:	Mr.M.Ajmal Khan, Senior Counsel
For Respondents	:	Mr.N.Shanmugaselvam, Additional Government Pleader



O R D E R

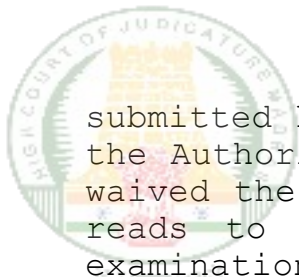
The petitioner herein, while working as Middle School Head Master at Panchayat Union Middle School, Nellaithiruttu, Manoor Union, Tirunelveli District, was levelled with certain charges of sexual harassment of the girls students studying in 6th standard to 8th standard as well as for other charges under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules (hereinafter referred to as the 'Rules'). Prior to the issuance of charge memo, he was placed under suspension and it is claimed that the District Elementary Educational Officer had conducted an enquiry, pursuant to which, the petitioner was found to be guilty of eight charges among the nine charges and consequently, was imposed with a punishment of stoppage of his increment for three years with cumulative effect. The appeal against the order before the Joint Director of Elementary Education was also dismissed and hence, the present writ petition.

2. The learned senior counsel for the petitioner raised a ground that the enquiry was not conducted as per the provisions of the Rules. According to him, no oral enquiry was conducted nor was any witnesses examined and therefore, the enquiry itself is vitiated.

3. The learned Additional Government Pleader would place reliance on the averments in the counter affidavit and submit that after the charges were levelled against the petitioner, he had offered his explanation on 17.08.2016 and since his explanation was not satisfactory, the District Elementary Educational Officer had appointed a Committee of Enquiry Officers to enquire into the matter. The Committee had made a detailed enquiry and found the charges to be proved. The petitioner was called upon to give his further explanation which he did on 28.12.2016. The further explanation was also considered and rejected and the punishment imposed was also proportionate to the charges levelled.

4. The charges against the petitioner herein, are very serious in nature. The petitioner, being the Head Master of the School, is the custodian and guardian of the children in his School. The enquiry conducted against him has been proved, which would render such a person to be unfit for holding the post. Nevertheless, in order to hold a delinquent guilty, the law requires the Authorities to follow the procedure prescribed under the Rules for the purpose of coming to a decision. Any other mode of arriving at a decision, which is contrary to the Rules prescribed, would render the decision making process invalid.

5. Rule 17(b) of the Tamil nadu Civil Service Disciplinary and Appeal Rules, postulates a step-by-step procedure for holding a departmental action. As per the Rule, when a delinquent has



submitted his written statement of his defence, it is mandatory for the Authorities to hold an oral enquiry, even if the delinquent has waived the oral enquiry. In the present case, the counter affidavit reads to the effect that the petitioner had not requested for examination of witnesses and therefore, the Disciplinary Authority had proceeded with the report of the Enquiry Committee and imposed the punishment. The Appellate Authority had also concurred with the punishment, inspite of the fact that the petitioner had raised a specific ground that he was not given an opportunity of an oral enquiry.

6. On this sole ground, the enquiry report and the consequential punishment and appellate orders cannot be sustained. Nevertheless, by taking into account the gravity of the charges levelled against the petitioner, it would be appropriate to direct the respondents to conduct a fresh enquiry by following the procedures laid down under Rule 17(b).

7. In the light of the above observations, the impugned order dated 30.11.2017 is set aside and consequently, the matter is remanded back to the third respondent, who shall appoint a fresh Enquiry Officer to enquire into the charges levelled against the petitioner on 19.07.2016 by the third respondent under Rule 17(b) of the Rules and thereafter, proceed with the disciplinary action in accordance with the procedure contemplated under Rule 17(b) of the aforesaid Rules. The third respondent herein shall endeavour to complete the departmental action, as expeditiously as possible, in any event, within a period of six months from the date of receipt of a copy of this order.

8. The writ petition stands ordered accordingly. However, there shall be no order as to costs. Consequently, connected W.M.P.(MD) No.2330 of 2018 is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009
- 2) The Joint Director of
Elementary Education (Administration),
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O/o the District Elementary Educational Office,
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Educational Office,
Manur @ Rastha, Tirunelveli - 627 201,
Tirunelveli District.

+1 CC to M/s.SPL GP (SR-6725[F], SR-8230[F] dated 23/02/2021)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-8296[F] dated
02/03/2021)

W.P. (MD)No.2075 of 2018
01.03.2021

SVN(CO)
KB(09.03.2021) 4P 7C