



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2022

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.21788 of 2016

and

W.M.P.Nos.18629, 18630, 38452 of 2016 & 10272 of 2021

P.Balamani

...Petitioner

Vs

1.The Principal Secretary to Govt.,
School Education Department,
Secretariat, Chennai - 600 009.

2.The Director of Elementary
Education Officer, (Aided School)
Chennai - 600 006.

3.The District Elementary
Education Officer,
Coimbatore District,
Raja Street, Coimbatore - 641 001.

4.The Assistant Elementary
Education Officer,
Karamadai,
Coimbatore District - 641 669.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the 3rd respondent in Na.Ka.No.4292/A-4/2013 dated 13.06.2016 issued under the caption of Enquiry Report and quash the same.

For Petitioner : Mr.P.Srinivas

For Respondents : Ms.P.Rajarajeswari,
Government Advocate

ORDER

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

2. On charges of unauthorised absence, the third respondent had issued a charge memo dated 30.12.2013 to the



petitioner, pursuant to which, an enquiry was conducted. When the petitioner had earlier sought for issuance of Writ of Mandamus to complete these proceedings, this Court, by an order dated 16.11.2015 passed in W.P.No.36284 of 2015, had observed that the Enquiry Officer had already completed the enquiry and submitted his report and therefore stipulated a time limit for completion of the entire disciplinary proceedings.

3. In the enquiry report dated 28.02.2015, the third respondent herein had held the charges under the charge memo dated 30.12.2013 as 'not proved'. However, the second respondent herein had chosen to again conduct a fresh enquiry on the same charge memo, pursuant to which, the impugned enquiry report dated 13.06.2016 came to be passed. Challenging the same, the present writ petition has been filed.

4. Whenever an enquiry is conducted, pursuant to levelled charges and an enquiry report is filed, the Disciplinary Authority is required to take further course of action based on the proved charges and in case, the charges are held to be not proved, the only option available to the Disciplinary Authority would be to drop the charges.

5. The Tamil Nadu Civil Services (Discipline and Appeal) Rules does not provide for conducting a fresh enquiry, after an enquiry report is filed by holding the charges as 'not proved'. While that being so, the very decision of the second respondent to conduct a fresh enquiry, by appointing the fourth respondent as the Enquiry Officer, cannot be sustained.

6. In the result, the impugned enquiry report dated 13.06.2016 is quashed. The Writ Petition stands allowed, accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

7. In view of the disposal of this writ petition, the petitioner would be entitled for all the service and monetary benefits, as if no departmental action was initiated against him.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar



To

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Coimbatore District - 641 669.
- +1 CC to Mr.P.Srinivas, Advocate sr 7483
+1 CC to The Government Pleader sr 7349

W.P.No.21788 of 2016

PMK(CO)
SP(23/02/2022)