



WEB COPY



W.P. No.35796 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.35796 of 2016
and WMP.Nos.30743 & 30744 of 2016

P.Velmurugan
S/o.Packirisamy

... Petitioner

-vs-

1. The Director of School Education,
D.P.I. Campus, College Road,
Nungambakkam, Chennai – 600 006.
2. The Joint Director (Higher Secondary) of School Education,
D.P.I. Campus, College Road,
Nungambakkam, Chennai – 600 006.
3. The Chief Educational Officer,
Villupuram.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, call for the records of the 2nd respondent herein in Na.Ka.No.75755/W3/E3/2016 dated 12.09.2016 and quash the same and direct the 1st respondent herein to promote the petitioner as Higher Secondary School Head Master.

For Petitioner : Mr.S.Mahesh

For Respondents : Mrs.S.Mythreyachandru
Special Government Pleader



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ORDER

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2. The petitioner joined as P.G.Assistant(English) in Government Boys Higher Secondary School. A charge memo under Rule 17(b) of the Discipline and Appeal Rules was issued against the writ petitioner.

3. On perusal of the charge memo, it reveals that the allegations are grave in nature, thus there is no infirmity in issuing a charge memo under Rule 17(b) of the Discipline and Appeal Rules.

4. The writ petitioner submitted an explanation and not satisfied with the explanation, the disciplinary authority appointed an Enquiry Officer, who in turn conducted an enquiry and submit a report.

5. The learned counsel for the petitioner states that the Enquiry officer found that the charges against the writ petitioner are not proved. However, the disciplinary authority disagreed with the findings of the Enquiry Officer and imposed the punishment of censure vide impugned



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order dated 12.09.2016.

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6. The learned counsel for the petitioner reiterated that in the event of disagreement regarding the findings of the Enquiry Officer, the disciplinary authority has to issue a show cause notice to the writ petitioner regarding the reasons for disagreement enabling the authority official to submit his explanation.

7. In the present case, no such show cause notice was issued and the petitioner was not provided with an opportunity to defend the case regarding the disagreement of the disciplinary authority with the findings of the Enquiry Officer.

8. The learned Special Government Pleader appearing on behalf of the respondents is unable to establish that an opportunity was given to the writ petitioner to submit his further objections on the decision taken by the disciplinary authority to disagree with the findings of the Enquiry Officer. Thus, the principles of natural justice has been violated in this case and the petitioner was not afforded with an opportunity to defend his case with reference to the final decision taken by the disciplinary



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authority to deviate the Enquiry Officer's finding.

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9. In view of the facts and circumstances, the order impugned passed by the second respondent in Na.Ka.No.75755/W3/E3/2016 dated 12.09.2016 is quashed and the second respondent disciplinary authority is directed to issue a show cause notice to the petitioner setting out the reasons for disagreeing with the findings of the Enquiry Officer and provided an opportunity to the petitioner to submit his further objections/explanations, on such reasons, the second respondent disciplinary authority shall consider the materials available on record and pass final orders on merits and in accordance with law as expeditiously as possible.

With these directions, this writ petition stands allowed. No costs.
Connected miscellaneous petitions are closed.

10.11.2022

Index : Yes

Speaking Order : Yes

mp



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To
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S.M.SUBRAMANIAM, J.

mp

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