



WP No. 32404 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-10-2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.32404 of 2017

And

WMP Nos.35686 to 35689 of 2017

S.Rathika

..

Petitioner

vs.

1.The District Elementary Educational Officer,
Salem District,
Salem.

2.The Assistant Elementary Educational Officer,
Veerapandi,
Salem District,
Salem.

..

Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of charge memo issued by the first respondent in Na.Ka.No.2614/A2/2014 dated 14.07.2015, the



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impugned order of the first respondent issued in Na.Ka.No.2614/A2/2014 dated 17.10.2016 and the consequential order issued by the second respondent in Na.Ka.No.93/A1/2014 dated 19.01.2017 and quash the same and consequently direct the respondents to treat the entire period of suspension as duty since the impugned order of charge memo, punishment and the regularization order of the suspension period are all not in consonance with the Disciplinary Rules and also in accordance with the law and therefore, liable to be quashed in limine.

For Petitioner : Mr.T.Ranganathan

For Respondents : Ms.S.Mythreye Chandru,
Special Government Pleader.

ORDER

The order of punishment of stoppage of increment for two years without cumulative effect imposed in proceedings dated 17.10.2016 and the consequential order issued by the second respondent in proceedings dated 19.01.2017 regulating the period of suspension as leave eligible, are under challenge in the present writ petition.

2. The petitioner states that she was appointed as Secondary



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Grade Teacher and promoted to the post of Headmistress on 24.07.2007. A charge memorandum was issued in proceedings dated 14.07.2015 framing the three charges. The petitioner submitted her explanations denying the charges.

3. Not satisfied with the explanations submitted by the writ petitioner, the Disciplinary Authority appointed an Enquiry Officer, who in turn conducted the enquiry into the charges framed against her. The petitioner participated in the process of enquiry and defended her case by submitting the documents and explanations.

4. The Enquiry Officer submitted his report on 12.08.2016 and based on the said report, the punishment of stoppage of increment for two years without cumulative effect was imposed on the writ petitioner by the Disciplinary Authority.

5. The learned counsel for the writ petitioner made a submission that the petitioner was not placed under suspension by passing an



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appropriate order. However, erroneously the period was treated as suspension in an irregular manner.

6. That apart, the enquiry report was not communicated to the writ petitioner, enabling her to submit her further objections on the findings of the Enquiry Officer and therefore, the order impugned was passed in violation of the principles of natural justice.

7. It is needless to state that the departmental disciplinary proceedings are to be conducted by following the procedures as contemplated. The opportunities as conferred are to be granted to the charged official. The enquiry report should be communicated to the charged official for the purpose of providing an opportunity to submit her further objections on the findings of the Enquiry Officer.

8. In the present case, the learned Special Government Pleader appearing on behalf of the respondents, though produced the original file, could not establish that the enquiry report was not communicated to the writ



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petitioner and the Authorities have treated the enquiry report of the Enquiry Officer as confidential.

9. The enquiry report of the Enquiry Officer at no circumstances be treated as confidential. The enquiry report is to be communicated to the charged officials for the purpose of submitting their further objections on the findings of the Enquiry Officer. It is an important opportunity, enabling the charged official to raise objections regarding the findings of the Enquiry Officer and the reasonings given by the Enquiry Officer for arriving a conclusion based on the documents and the evidences. Thus, an opportunity of submitting further objections on the findings of the Enquiry officer is an important opportunity, which is to be provided to the charged official and in the present case, the respondents could not establish that the enquiry report was communicated to the writ petitioner.

10. This Court has often witnessing many such circumstances where the procedures as contemplated are not being adopted by the Disciplinary Authority in number of departmental disciplinary proceedings.



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The procedures are simple and the opportunities to be provided to the charged officials are vital.

11. The compliance of principles of natural justice is one of the basic right of an employee against whom the departmental disciplinary proceedings are initiated. Thus the Authorities Competent are bound to follow the procedures scrupulously and provide an opportunity at every stage as contemplated to the charged officials.

12. When large number of litigations are arising on account of the procedural irregularities in the matter of departmental disciplinary proceedings, it is high time where the Director of School Education has to initiate steps to provide training or otherwise, for the purpose of understanding the procedures in the matter of conduct of departmental disciplinary proceedings.

13. One can understand if a wrong decision is taken by the Disciplinary Authority, but as regards the procedures are concerned, it is to



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be followed scrupulously by all the Competent Authorities and violations in this regard are also to be viewed seriously. If the Competent Authorities are frequently committing such procedural violations in the matter of departmental disciplinary proceedings, then the official concerned, may be held responsible for such violations, as the procedures are contemplated in order to comply with the principles of natural justice.

14. Thus the Director of School Education in this regard has to conduct frequent trainings for the Disciplinary Authorities, who all are empowered to conduct the departmental disciplinary proceedings against the delinquent officials in the Department. The procedures to be adopted in the departmental disciplinary proceedings and the opportunities to be afforded to the delinquent officials, are to be clearly elaborated to all the officials, enabling them to follow the same. In the event of violation, actions are to be taken against the Authorities, who all are committing such procedural violations frequently. It is to be construed as if they are not efficient enough to deal with the departmental disciplinary proceedings.



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15. In the present case, the enquiry report was not communicated to the writ petitioner and thus the petitioner was deprived of her opportunity to submit her further objections, if any, on the findings of the Enquiry Officer.

16. In view of the facts and circumstances, the impugned orders passed by first respondent in proceeding Na.Ka.No.2614/A2/2014 dated 17.10.2016 and the consequential order issued by the second respondent in proceedings Na.Ka.No.93/A1/2014 dated 19.01.2017, are quashed and now the District Elementary Educational Officer concerned is directed to communicate the copy of the enquiry report to the writ petitioner, within a period of four weeks from the date of receipt of a copy of this order. The writ petitioner is at liberty to submit her further objections/explanations, along with the documents, if any, to the Disciplinary Authority, within a period of two weeks from the date of receipt of the copy of the enquiry report to be communicated by the District Elementary Educational Officer. On receipt of the further objections/explanations, if any, from the writ petitioner, the Disciplinary Authority shall pass final orders on merits and in



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accordance with law as expeditiously as possible.

17. With the abovesaid directions, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes/No.

Internet : Yes/No.

Speaking Order/Non-Speaking Order.

Svn

Office to Note: The Registry is directed to communicate the copy of this order to the Director of School Education, DPI Complex, College Road, Chennai-600 006.

To

1. The District Elementary Educational Officer,
Salem District,
Salem.
2. The Assistant Elementary Educational Officer,
Veerapandi,
Salem District,
Salem.

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S.M.SUBRAMANIAM, J.

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