



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.2124 of 2022

and

W.M.P.(MD) Nos.1840, 1841 & 3054 of 2022

S.Antony Viji

... Petitioner

-vs-

1. The District Educational Officer,
Cheranmahadevi, Tirunelveli District.

2. The Secretary,
Sivanthi Matriculation Higher Secondary School,
Cheranmahadevi, Tirunelveli.

3. The Principal,
Sivanthi Matriculation Higher Secondary School,
Cheranmahadevi, Tirunelveli.

4. Kamaraj, The Secretary,
Sivanthi Matriculation Higher Secondary School,
Cheranmahadevi, Tirunelveli.

5. The District Collector,
Tirunelveli.

6. The Chief Educational Officer,
Tirunelveli.

... Respondents

[R5 and R6 are *suo motu* impleaded vide order
dated 03.02.2022 in W.P.(MD) No.2124 of 2022]

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 2nd respondent dated 16.12.2021 and quash the same and consequently direct the 1st respondent to reinstate the petitioner into service with all service and monetary benefits and also direct the 1st respondent to enquire into the complaint of the petitioner dated 29.06.2021.



For Petitioner : Mr.M.Thirunavukkarasu
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

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O R D E R

The order of suspension dated 16.12.2021 issued by the 2nd respondent is under challenge in the present writ petition.

2. The petitioner is working as Teaching Assistant in the 2nd respondent school. The 2nd respondent school is a Matriculation School. Therefore, governed under the Matriculation Schools Regulations issued by the Education Department of the Government of Tamil Nadu.

3. The grievance of the petitioner is that she has given a complaint against the 4th respondent regarding sexual harassment. The said complaint was not inquired into under the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. However, the 2nd respondent has placed the writ petitioner under suspension. Thus, the petitioner is constrained to move the present writ petition.

4. The learned counsel for the petitioner reiterated that the suspension order is a motivated order and therefore, it is to be revoked.

5. The learned Additional Government Pleader objected the said contention by stating that even the complaint given by the petitioner was withdrawn by her before the police station. When the petitioner herself withdrawn the complaint, the submission by the petitioner that no action taken is incorrect. In this regard, the learned Additional Government Pleader referred to the counter affidavit filed by the District Educational Officer, Cheranmahadevi, Tirunelveli District-the 1st respondent. Para 11 of the counter reads as under:-

"11. In regard to the complaint petitioner dated 29.06.2021 filed before the State commissioner for women Chepauk, Chennai-5, it is submitted that as per the instructions of the said State Commissioner, the sixth respondent here in his proceedings NaKa No.4648/A5/2021 dated 29.11.2021 requested the first respondent to conduct enquiry and submit report to his office. Accordingly, the first respondent based on the enquiry already made by the Assistant Sub Inspector of Police of Cheranmahadevi and the fact of withdrawal of the complaint by the petitioner herein



before the said police officer and settlement of unpaid salary to the petitioner by the second respondent, submitted her report to the sixth respondent in her letter R.C.No.3239/B4/2021 dated 11.02.2022. Hence nothing survives in the plea of the petitioner to direct the first respondent to conduct an enquiry on her complaint petition dated 29.06.2021."

6. The learned Additional Government Pleader further contended that the petitioner knowing the consequences, has withdrawn the complaint given by her. Under the said Act, if a false complaint is given then such person also is liable to be prosecuted under Section 13 of the Act.

7. The learned counsel appearing for the School Management made a submission that based on certain serious allegations against the petitioner, departmental disciplinary proceedings were initiated. Therefore, the petitioner was placed under suspension. Instead of preferring an appeal before the Director of Matriculation Schools, the petitioner has chosen to file the present writ petition. Thus, the writ petition is to be rejected.

8. The allegations and counter allegations raised between the parties cannot be adjudicated elaborately in a writ petition under Article 226 of the Constitution of India. All such allegations are to be inquired into by the competent authorities with reference to the documents and evidences available. Suspension per se is not a punishment. However, prolonged suspension is bad in law. An employee need not be kept under suspension unnecessarily for a prolonged period without concluding the disciplinary proceedings.

9. In the present case, the learned counsel for the petitioner states that subsistence allowance has not been paid.

10. It is made clear that if the subsistence allowance is paid, then only, the respondent-school is empowered to conduct the disciplinary proceedings. Thus, the 2nd respondent is directed to pay the subsistence allowance immediately and continue disciplinary proceedings by following the procedures and by affording opportunity to the writ petitioner. The petitioner is directed to cooperate for the early disposal of the disciplinary proceeding and in the event of non-cooperation, the same may be recorded in the proceedings itself and in such circumstances, the petitioner is not entitled to claim any benefits on the ground of delay in disposing the disciplinary proceedings.

11. In view of the facts and circumstances, the respondents are directed to continue the departmental disciplinary proceedings by following the procedures and by affording opportunity to all the



parties and conclude the same within a period of four months from the date of receipt of a copy of this order. Meanwhile, the 2nd respondent is directed to pay the subsistence allowance before the commencement of enquiry proceedings. It is needless to state that the complaint, if any, given by the petitioner is also to be inquired into.

12. With the above directions, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

To

1. The District Educational Officer,
Cheranmahadevi, Tirunelveli District.

2. The District Collector,
Tirunelveli.

3. The Chief Educational Officer,
Tirunelveli.

+1 CC to M/s.M. THIRUNAVUKKARASU, Advocate (SR-20191[F] dated 21/04/2022)

+1 CC to M/s.SPL.GP. (SR-20742[F] dated 22/04/2022)

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