



W.P(MD)No.4676 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.10.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.4676 of 2021

and

W.M.P(MD)Nos.3791 & 3792 of 2021

K.Madhivanan

... Petitioner

Vs

1.The Director of Elementary Education,
Department of Elementary Education,
No.17, College Road,
Thousandwards West,
Nungambakkam,
Chennai – 600 008.

2.The District Educational Officer,
District Education Office,
Pudukkottai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in Na.Ka.No.3165/A3/2020 dated 22.02.2021 on the file of the second respondent and quash the same as illegal and consequently direction directing the respondents to reinstate the petitioner as Headmaster in light of the Acquittal Judgment in CrI.A.(MD).No.178 of 2017 dated 30.06.2020 passed by this Court and regularize the period of suspension of the petitioner from 22.05.2015 to till date as duty period with full pay and



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allowance as admissible under the Rule 54 B (9) of the Tamil Nadu Government Fundamental Rules within the time stipulated by this Court.

For Petitioner : Mr.I.Pinaygash

For Respondents : Mr.S.Shaji Bino
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2. The writ petitioner was working as Head Master. On 13.05.2015, Crime No.183 of 2015 came to be registered against him on the file of Inspector of Police, Ganesh Nagar Police Station, Pudukkottai. The petitioner was suspended from service on 22.05.2015 and charge memo was also issued on 28.01.2016. The petitioner came to be convicted and sentenced vide judgment dated 12.06.2017 in S.C.No.35 of 2016 on the file of Mahila Court, Pudukkottai. In view of the conviction and sentence suffered by the writ petitioner, the writ petitioner was dismissed from service on 19.06.2017. The judgment of conviction and sentence imposed by the trial Court was reversed in CrI.A(MD)No.178 of 2017 dated 30.06.2020 by this Court. There is no dispute that the dismissal of the writ petitioner from service was pursuant to the judgment of conviction and sentence. Since the same has been set aside by the appellate Court the order dismissing the writ petitioner from service has to be



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necessarily set aside. In that view of the matter, the impugned order dated 22.02.2021 is also set aside. The respondents shall reinstate the petitioner in service forthwith.

3. It is well settled that the acquittal of the Government servant in the criminal case will not bar the hands of the impugned order from proceedings thereafter. In this case charge memo was framed as early as on 28.01.2016. The respondents are at liberty to continue the proceedings and take them to their logical conclusion. If the respondents are not reinstating the petitioner forthwith in service, the respondents are obliged to pay him the subsistence allowance as per the Rules. In fact the petitioner will be entitled to the arrears of such allowances right from the date of conviction till date in the light of Rule 54 B (9) of the Tamil Nadu Government Fundamental Rules. With the aforesaid direction to the respondents to pay the arrears and liberty to the respondents to proceed with disciplinary action, this writ petition is allowed. Consequently, connected miscellaneous petitions are closed. No costs.

10.10.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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