



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.8800 of 2022 and
W.M.P(MD) .No.6414 of 2022

B.Arunkumar

... Petitioner

Vs.

1. The Chief Educational Officer,
O/o.The Chief Educational Officer,
Dindigul,
Dindigul District.

2. The District Educational Officer,
O/o.The District Educational Officer,
Dindigul,
Dindigul District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to defer the departmental enquiry on the charges issued under Section 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules contained in the Charge Memo in Na.Ka.No.6483/Aa7/2021, dated 02.12.2021, till the enquiry by the Internal Complaints Committee is concluded.

For Petitioner : Mr.S.Louis

For Respondents : Mr.G.V.Vairom Santhosh

Additional Government Pleader

O R D E R

The relief sought for in the present writ petition is to direct the respondents to defer the departmental enquiry on the charges issued under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules (hereinafter referred to as "the Discipline and Appeal Rules") contained in charge memo in proceedings Na.Ka.No.6483/Aa7/2021 dated 02.12.2021.

2. The petitioner is working as Block Educational Officer. Based on the allegations of sexual harassment in workplace against women employees, the respondents constituted Internal Complaints Committee. The writ petition filed by the writ petitioner in W.P.



(MD) No.3755 of 2022 was disposed of by this Court on 12.04.2022 directing the Internal Complaints Committee to conduct enquiry by following the procedures and by affording opportunity to all the parties and complete the same as expeditiously as possible.

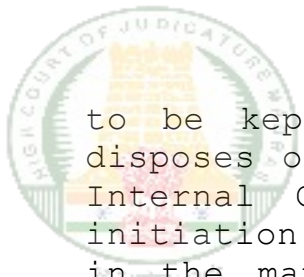
3. The learned counsel for the petitioner made a submission that the petitioner is co-operating for completion of the inquiry by the Internal Complaints Committee.

4. The grievance of the petitioner is that during the process of inquiry by the Internal Complaints Committee, the departmental disciplinary proceedings are also continued simultaneously and in such an event, the petitioner would be prejudiced.

5. No doubt, the procedures to be followed by the Internal Complaints Committee and the Disciplinary Authorities are distinct and different. In view of the fact that the Internal Complaints Committee has already seized of the matter and the enquiry is in progress, it is preferable that the departmental disciplinary proceedings may be continued after completion of the inquiry by the Internal Complaints Committee and on submission of its final report.

6. Even in case, the Internal Complaints committee forming an opinion that the charges are not established, the Departmental Disciplinary Authorities are empowered to continue the departmental disciplinary proceedings by invoking the provisions of the Tamil Nadu Government Servants Conduct Rules. The allegation of sexual harassment under the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as "the Act") cannot be compared with the misconduct of the public servants under the Tamil Nadu Government Servants Conduct Rules. The procedures are also distinct and different. Thus, the exoneration in Internal Complaints Committee inquiry may not be a ground to seek exoneration from the departmental disciplinary proceedings. Thus, even after inquiry, the departmental disciplinary proceedings may go on and a final order may be passed in accordance with the Discipline and Appeal Rules in respect of the misconduct if any. Under the Tamil Nadu Government Servants Conduct Rules, even a moral turpitude is enough to punish an employee. However, under the Sexual Harassment Act, the procedures are contemplated and therefore, its distinction is always to be borne in mind by the Departmental Disciplinary Authorities while initiating departmental disciplinary proceedings.

7. In the present case, the grievance of the writ petitioner is that the departmental disciplinary proceedings are



to be kept in abeyance till the Internal Complaints Committee disposes of the inquiry proceedings. In fact, the report of the Internal Complaints Committee is also one of the source for initiation of further proceedings or for passing appropriate order in the manner known to law. This being the principles to be followed, the respondents are directed to keep the departmental disciplinary proceedings initiated against the writ petitioner under Rule 17(b) of the Discipline and Appeal Rules in abeyance till the final report is submitted by the Internal Complaints Committee and thereafter, the respondents are at liberty to proceed the departmental disciplinary proceedings taking note of the materials available on record including the report to be submitted by the Internal Complaints Committee.

8. With the above directions, this Writ Petition stands disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

ssb/abr

To

1. The Chief Educational Officer,
O/o.The Chief Educational Officer,
Dindigul, Dindigul District.
2. The District Educational Officer,
O/o.The District Educational Officer,
Dindigul, Dindigul District.

+1 CC to M/s.S.LOUIS, Advocate (SR-22669[F] dated 29/04/2022)
+1 CC to M/s.SPL.GP (SR-23326[F] dated 04/05/2022)

W.P. (MD) No.8800 of 2022

29.04.2022

USK/26.05.2022/3P/5C