



W.P(MD)No.14774 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14774 of 2021

and

W.M.P.(MD)Nos.11687, 11688 & 11689 of 2021

V.Ramesh

... Petitioner

Vs.

1.The Director of School Education,
O/o. the Director of School Education,
D.P.I Campus, College Road,
Chennai-6.

2.The Chief Educational Officer,
O/o. the Chief Educational Office,
Tenkasi,
Tenkasi District.

3.The District Educational Officer,
O/o. the District Educational Office,
Sankarankovil Taluk,
Tenkasi District.

4.The Correspondent,
Seeniammal High School,
Chinthamani, Puliyangudi,
Sivagiri Taluk,
Tenkasi District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 2nd Respondent in his proceedings in Na.Ka.No.1112/Aa2/2020 dated 27.04.2021 and quash the same as illegal and consequently to direct the 2nd Respondent to appoint the petitioner as Physical Educational Teacher in any of the school in Tenkasi District and pay arrears of salary and all other attended monetary benefits thereon within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates
For R1 to R3 : Mr.N.Sathees Kumar
Additional Government Pleader
For R4 : Mrs.A.Banumathy

ORDER

The writ petitioner was appointed as Physical Education Teacher in the fourth respondent School on 13.08.2015. The fourth respondent is an aided minority institution. The Management received complaints from the students regarding the conduct of the petitioner. The petitioner was suspended from service. The writ petitioner filed several writ petitions before this Court questioning the action taken by the Management. Eventually, those writ petitions came to be dismissed as withdrawn. The suspension order was also revoked on 04.12.2018. The petitioner re-joined duty. It appears that he was working for about eight months. The management submitted a proposal to the



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department for surrendering the post itself on 31.08.2019. Till date, the Department has not passed any order on the surrender proposal submitted by the management. The petitioner in the meanwhile moved the department for posting him as Physical Education Teacher in any one of the schools in the same district. The said request was rejected by the impugned order dated 27.04.2021 by the Chief Educational Officer, Tenkasi. Challenging the same, the present writ petition has been filed.

2. Heard the learned counsel on either side.

3. The basic facts are not in dispute. The petitioner was appointed in a sanctioned post in an aided minority institution. Though he was originally suspended from service, subsequently, the suspension order was revoked. There is nothing on record to show that any fresh order was passed by the Management against the writ petitioner. Only a surrender proposal was submitted to the department. Till the surrender proposal was disposed of by the competent authority, the Management could not have prevented the petitioner from discharging his duties. Admittedly, the petitioner was receiving salary upto July 2018. He was under suspension for five months. During the said period, he was not paid any subsistence allowance. Suspension order was



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revoked on 04.12.2018. The surrender proposal was submitted on 31.08.2019.

The petitioner was allowed to work from December 2018 till August 2019.

Only thereafter, he was not allowed to work. Since the petitioner was not allowed to work by the Management from August 2019 onwards, the department cannot be expected to disburse the grant for paying the petitioner's salary. At the same time, the petitioner cannot be left hanging in the air. The management ought to have waited till final order was passed by the competent authority. They could not have arbitrarily and unilaterally dispensed with the services of the petitioner. Since they have done so, they have to bear the financial burden.

4. In these circumstances, the following directions are issued:-

(I) The management is directed to pay the writ petitioner's subsistence allowance for the four months commencing from 02.07.2018. Release of grant will depend on the outcome of the disciplinary action.

(ii) The management has to pay full salary of the petitioner for the period from 01.11.2018 till 04.12.2018.

(iii) The department has to pay full salary of the writ petitioner for the period from 04.12.2018 till 31.08.2019.

(iv) The management has to pay full salary to the petitioner for the period



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from 31.08.2019 till passing of the order by the competent authority on the surrender proposal.

(v) The second respondent is directed to pass order on the management's proposal for surrendering the post of Physical Education Teacher.

(vi) The writ petitioner's right will abide by the terms of the order to be passed by the competent authority.

(vii) The competent authority is directed to pass order on the said surrender proposal within a period of three weeks from the date of receipt of a copy of this order. Whether the surrender proposal is accepted or rejected, the management will be entitled to pass a final order on the disciplinary action initiated against the petitioner on merits and in accordance with law after due compliance of the statutory procedures.

5. The writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

07.11.2022

Index : Yes / No

Internet : Yes/ No

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To

1. The Director of School Education,
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D.P.I Campus, College Road,
Chennai-6.



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G.R.SWAMINATHAN, J.

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