



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.16665 of 2020

W.M.P(MD).Nos.13919 and 13921 of 2020

M.Thirumeni

... Petitioner

Vs.

- 1.The State of Tamil Nadu
Rep.by its Secretary to Government,
School Education Department,
Secretariat,
Chennai-600 009.
- 2.The Director of Elementary Education,
DPI Campus, College Road,
Chennai-600 006.
- 3.The Joint Director of Elementary Education (Aided Schools),
DPI Campus, College Road,
Chennai-600 006.
- 4.The Chief Educational Officer,
Syed Murthuza Higher Secondary School Compound,
Trichy-620008.
- 5.District Educational Officer,
(Formerly District Elementary Educational Officer, Trichy)
Musiri (PO),
Trichy District-621 211.
- 6.The Block Educational Officer-1,
(Formerly District Elementary Educational Officer)
Musiri -621 211,
Trichy District-621 211.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to order No.10956/Tho.Ka.2(1)/2020-2 dated 24.09.2020 passed by the 1st respondent and quash the same and consequently direct the respondents to pass final orders on the charge Memo No.Nil dated 26.9.2011 based on the enquiry held on



27.12.2011, to regularize the suspension period from 30.08.2011 to 30.12.2011 as Unearned Leave on Private Affairs to grant annual periodical increments from 01.01.2011 to revise the Grade Pay in Post of Middle school Headmasters from Rs.4500/- to Rs.4700/- with effect from 01.01.2006 (monetary benefit from 01.01.2011) as per G.O.Ms.No.23 Finance (PC) Department dated 12.01.2011 to grant Selection Grade in the post of Middle School Headmaster from 25.06.2014 and to refix pay in the Revised Pay Band under the Tamil Nadu Revised Scale of Pay Rules 2017 with effect from 01.01.2016 as per G.O.Ms.No.303, Finance (OC) Department dated 11.10.2017 and grant all the service and monetary benefits within a time limit to be fixed by this Court.

For Petitioner : Mr.A.Thirumurthy

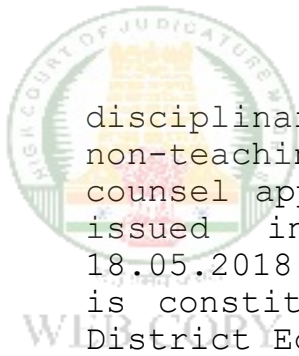
For Respondents : Mr.G.V.Vairom Santhosh
Additional Government Pleader

O R D E R

The charge memo dated 26.09.2011 issued by the Aided School Management is under challenge in the present Writ Petition.

2. The writ petitioner is working as Head Master in Manya Nadu Nilai Palli. The Secretary of the School Committee has issued a charge memo dated 26.09.2011 to the petitioner calling for explanation and the petitioner had also submitted his explanation on 25.10.2011. Not satisfying with the explanation, the Secretary of the School Committee placed the petitioner under suspension on 30.08.2011. However, the order of suspension was revoked by the Secretary himself on 30.12.2011 and the subsistence allowance was also paid for the period of suspension. However, the departmental disciplinary proceedings initiated are kept pending. The petitioner was reinstated into service on 30.12.2011 and he made a representation to pay full salary for the period of suspension. Based on the representation submitted by the petitioner, this Court in W.P(MD).No.26017 of 2019 directed the Authorities to consider the same. Accordingly, the first respondent passed the order and rejected the claim on the ground that the departmental disciplinary proceedings are pending.

3. The fact remains that the departmental disciplinary proceedings initiated against the petitioner are pending. The learned counsel appearing for the petitioner reiterated that the School committee is not functioning as it was not constituted in accordance with the provisions of the Act and the direct payment system is in-force. The Competent Authorities are dealing with the affairs of the School. This being so, the District Educational Officer is the Competent Authority to dispose of the departmental



disciplinary proceedings, if any pending, against the teaching or non-teaching staff in the school. In this regard, the learned counsel appearing for the petitioner relied on the Government Order issued in G.O.Ms.No.101, School Education Department dated 18.05.2018. As per the said Government Order, if no School Committee is constituted or non-functional in accordance with the Act, the District Educational Officer is the Competent Authority to deal with the departmental disciplinary proceedings. In this regard, the Government Order deals with service matters including the Appointing Authority and Disciplinary Authority which reads as under:-

3. Service Matters

I) **Appointing Authority:** He shall be the appointing authority for the following categories of posts;

a) Headmasters of Middle and Primary Schools, Secondary Grade Teachers, Physical Education Teachers, Pre Vocational Teachers, BT Assistants under Tamil Nadu Elementary Education Sub-ordinate Service.

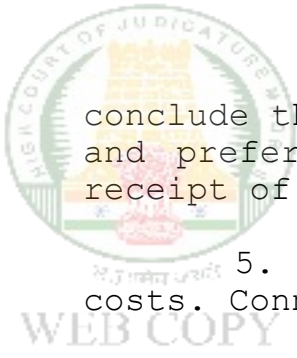
b) Drivers, Lab Attenders (Lab Assistants), Record Assistants, Record Clerks under Tamil Nadu General Sub-ordinate Service.

c) Office Assistants and Watchmen under Tamil Nadu Basic Service.

ii) **Disciplinary Authority:** He shall be the authority to initiate disciplinary proceedings under 17(a) and 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1973 and to pass final orders against staff for which he is the appointing Authority and Headmasters and BT Assistants in the Government Middle Schools.

Aided Schools: He shall be competent to entertain the appeal petition filed either by the Management or by teaching staff of Aided Primary and Middle Schools and to approve the punishment imposed by the Secretary/Correspondent of the School in respect of Aided High and Higher Secondary Schools.

4. When the District Educational Officer is the Competent Authority to deal with the disciplinary matters in the absence of Valid School Committee, the District Educational Officer is expected to conclude the departmental disciplinary proceedings in all respects and pass final orders without causing any undue delay. Long pendency of departmental disciplinary proceedings would cause prejudice to the interest of the employees. In the present case, the departmental disciplinary proceedings are pending for about 10 years. Therefore, this Court is inclined to consider the writ petition. Accordingly, the fifth respondent/District Educational Officer, Musiri, is directed to proceed with the departmental disciplinary proceedings initiated against the petitioner and conduct an enquiry by following the procedures as contemplated and



conclude the same and pass final orders as expeditiously as possible and preferably within a period of three months from the date of receipt of a copy of this order.

5. Accordingly, the Writ Petition stands disposed of. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb

To

- 1.The Secretary to Government,
State of Tamil Nadu
School Education Department,
Secretariat,
Chennai-600 009.
- 2.The Director of Elementary Education,
DPI Campus, College Road,
Chennai-600 006.
- 3.The Joint Director of Elementary Education (Aided Schools),
DPI Campus, College Road,
Chennai-600 006.
- 4.The Chief Educational Officer,
Syed Murthuza Higher Secondary School Compound,
Trichy-620008.
- 5.District Educational Officer,
(Formerly District Elementary Educational Officer, Trichy)
Musiri (PO),
Trichy District-621 211.
- 6.The Block Educational Officer-1,
(Formerly District Elementary Educational Officer)
Musiri -621 211,
Trichy District-621 211.

+1 CC to M/s.A. THIRUMURTHY, Advocate (SR-19530[F] dated 19/04/2022)



+1 CC to M/s.S.C. HEROLD SINGH, Advocate (SR-19599[F] dated 20/04/2022)

+1 CC to M/s.SPL.G.P. (SR-19792[F] dated 20/04/2022)

WEB COPY

W.P.(MD) No.16665 of 2020

19.04.2022

RK(02/05/2022) 5P 10C