



W.P.(MD)No.17514 of 2020 and W.P.(MD)No.6195 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.17514 of 2020
and
W.P.(MD)No.6195 of 2021

W.P.(MD)No.17514 of 2020:-

C.Balamurugan

... Petitioner

Vs.

1.The Director of School Education,
DPI Campus, College Road,
Nungambakkam, Chennai.

2.The Chief Educational Officer,
Chief Educational Office,
Thoothukudi District.

3.The District Educational Officer,
District Educational Office,
Kovilpatti – 628 501,
Thoothukudi District.

4.Ettayapura Raja Higher Secondary School,
School Committee Rep through its Secretary,
Ettayapuram, Thoothukudi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 4th respondent herein to implement the order of the 3rd respondent in his proceedings in



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Na.Ka.No.2659/A3/2018 dated 29.10.2020 and pass appropriate orders to reinstate the petitioner in service and release the subsistence allowance and other monetary benefits due to the petitioner as per the provisions of Tamil Nadu Private Schools Regulation Act and Rules for the period from 11.5.2018 to till date.

For Petitioner : Mr.V.Meenakshisundaran

For Respondents : Mr.N.Sathees Kumar,
Addl. Government Pleader for R1 to R3.
Mr.S.Ramesh,
For Mr.V.Raghavachari for R4.

W.P.(MD)No.6195 of 2021:-

Ettayapura Raja Higher Secondary School,
School Committee.
Rep. by its Secretary,
Ettayapuram,
Thoothukudi District.

... Petitioner

Vs.

1.The Director of School Education,
DPI Campus, College Road,
Nungambakkam, Chennai.

2.The Chief Educational Officer,
Chief Educational Office,
Thoothukudi District.

3.The District Educational Officer,
District Educational Office,
Kovilpatti – 628 501,
Thoothukudi District.

4.C.Balamurugan

... Respondents



W.P.(MD)No.17514 of 2020 and W.P.(MD)No.6195 of 2021

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records in Na.Ka.No.2659/A3/2018 dated 29.10.2020, on the file of 3rd respondent and quash the same as illegal incompetent, void and against the provision of the Tamil Nadu Recognized Private School (Regulation) Act and Rules.

For Petitioner : Mr.S.Ramesh,
For Mr.V.Raghavachari

For Respondents : Mr.N.Sathees Kumar,
Addl. Government Pleader for R1 to R3.
Mr.V.Meenakshisundaran for R4.

COMMON ORDER

Heard the learned counsel on either side.

2.C.Balamurugan was suspended from service on 11.05.2018. The two months suspension period ended on 10.07.2018. He is working in an aided non-minority institution. The statutory provision contemplates that it is the competent authority of the Education Department who has to grant extension of the initial period of two months by a speaking order. The first two months period expired on 10.07.2018. For extending the said period by two more months, though the management passed an order, the competent authority had not given their concurrence. Therefore, the period of suspension must be restricted only to first two months.



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3.The subsequent period cannot be treated as one of suspension. The employee by virtue of the statutory provision is deemed to have been reinstated with effect from 11.07.2018. Complaining that he has not been paid subsistence allowance for the period of suspension and that he has not been allowed to report for duty, the employee approached the competent authority. The competent authority passed order dated 29.10.2020 directing the management to pay subsistence allowance and also the other benefits payable to the employee. Seeking enforcement of the said order, the employee filed W.P.(MD)No.17514 of 2020. Questioning the same, the management filed W.P.(MD)No.6195 of 2021.

4.The stand of the management is that they had completed the enquiry within four months and that the writ petitioner had approached this Court and prevented the management from passing final order. Therefore, according to them, the petitioner is not entitled to claim any benefit. The grievance of the management is that without taking note of the conduct of the employee, the competent authority had passed the impugned order.

5.The grievance of the management may well be justified. But the statutory provision cannot be lost sight of. Since the school in question is a



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non-minority institution, to carry out the punishment that may be imposed by the management prior approval of the competent authority is required. In this case, that stage had not arisen at all. Even before the management could pass final order in the disciplinary proceedings, the employee had moved this Court and obtained an order of interim stay. Therefore, Section 22 of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 r/w. Rule 17(2) and (3) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974 will come into play. The employee should be deemed to have been reinstated. Since the competent authority had not granted permission for extending the initial period of two months, the employee is deemed to have been reinstated with effect from 11.07.2018 onwards. There is no way that this statutory effect can be overcome. The employee is entitled to the arrears and the consequential benefits. It is the management that must bear the financial burden and not the department.

6. In this view of the matter, W.P.(MD)No.17514 of 2020 is allowed and W.P.(MD)N9.6195 of 2021 is dismissed. No costs.

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

ias

To:

- 1.The Director of School Education,
DPI Campus, College Road,
Nungambakkam, Chennai.
- 2.The Chief Educational Officer,
Chief Educational Office,
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and
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(2/3)**