



W.P.(MD)No.2404 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.04.2022

DELIVERED ON : 07.07.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.2404 of 2018

and

W.M.P.(MD)No.17297 of 2018

M.Senthilkumar

... Petitioner

vs.

1.The Director,
Directorate of School Education,
College Road,
Chennai.

2.The Joint Director (Personal),
Directorate of School Education,
College Road,
Chennai.

3. The Chief Educational Officer,
Trichy,
Trichy District.

4. The Chief Educational Officer/Enquiry Officer,
Pudhukkottai,
Pudhukkottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the first respondent in his proceedings dated 06.11.2017 in Na.Ka.No.022767/C4/C3/2017 by which the



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proceedings of the second respondent in Pa.Mu.No.14408/C2/E3/2015 dated 28.02.2017 has been confirmed and quash the same and consequently direct the respondents to reinstate the petitioner into service with all benefits and within a time frame as stipulated by this Court.

For Petitioner : Mr.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr.V.Omprakash
Government Advocate (Civil Side)

ORDER

This Writ Petition has been filed challenging the impugned order dated 06.11.2017 and 28.02.2017 with the consequential prayer to direct the respondents to reinstate the petitioner into service with all benefits.

2. The brief facts of the case are that the petitioner has joined the service as Graduate Assistant Teacher on 29.03.2006 after passing the Teachers Eligibility Test.

3. The main contention of the petitioner is that the petitioner met with an accident in his childhood and suffered injury in his hip and shortening of right leg and he has suffered 65% injury due to which the petitioner could not stand for a very



long time and cannot walk to distant places. The petitioner had worked as Graduate

Assistant Teacher in science at Government Girls Higher Secondary School, Musiri.

The petitioner was teaching Science for 9th and 10th standards and he has produced 100% result. The Inspector of Matriculation Schools, Trichy, had visited the petitioner's school for conducting enquiry on the complaint received against one Palanivel, who was working as Post Graduate Assistant Teacher in Botany and the said teacher was teaching Biology to 11th and 12th standards. During the enquiry, the Inspector of Matriculation Schools had received complaints against the petitioner and also from the teachers as if the petitioner tried to misbehave with the students of 9th and 10th standards. The Inspector of Matriculation Schools has submitted a report on 13.02.2015. Based on the report, the petitioner was placed under suspension on 17.02.2015. The third respondent vide proceedings dated 12.05.2015 has sent a report to the second respondent informing the complaints received against the petitioner and requested him to pass appropriate orders. The second respondent vide proceedings dated 12.06.2015, had framed charges against the petitioner based on the alleged report. The petitioner was charge sheeted for 6 charges, an enquiry officer was appointed on 16.02.2016 and the petitioner attended the enquiry.

4. The contention of the petitioner is that when he appeared for the enquiry, the enquiry officer conducted the enquiry without giving any opportunity to examine the alleged teachers, who have given written complaints against the petitioner. The



enquiry officer did not enquire the students, who were said to be harassed by the petitioner. The petitioner was not granted any opportunity to cross-examine the teachers nor the students. The specific contention of the petitioner is that the allegations against the petitioner is false and are only hearsay and there is no evidence against the petitioner. The enquiry officer instead of conducting enquiry has obtained statements from witnesses and the petitioner was not allowed to cross-examine. The petitioner has submitted an explanation on 17.02.2016 based on the information received under Right to Information Act. The enquiry officer without considering any of the explanation has come to the conclusion that the charges 1, 2, 4 and 6 were proved but the fifth charge is not proved. Aggrieved over the same the petitioner had preferred an appeal and in the appellate order, the petitioner's plea was rejected. Aggrieved over the same, this Writ Petition is filed.

5. The respondents have filed a counter stating that the complaint was received by the CM Cell against one Palanivel, who was working as a Post Graduate Assistant Teacher in Botany. The third respondent issued an order, directing the Inspector of Matriculation Schools, Trichy, to conduct an enquiry. The said Palanivel was teaching Biology to the 11th and 12th standard students. As per the order and direction of the third respondent, the Inspector of Matriculation Schools, Trichy, visited the petitioner's school for conducting enquiry with regard to the complaint received against one Palanivel. The Inspector of Matriculation Schools, Trichy, has received



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complaints against the writ petitioner also from the students. The allegations against the petitioner are that the petitioner has misbehaved with the girl students, who belongs to economically backward community, and gave sexual harassment both physically and mentally. Thereafter, the petitioner was placed under suspension and a charge memo was issued and out of the six charges five were proved and finally punishment of removal from service was imposed. The second respondent, who is the disciplinary authority, has passed the order of removal from service was passed on 22.03.2017 based on the detailed enquiry conducted by the fourth respondent. Therefore, the respondents pray for dismissal of this writ petition.

6. Heard Mr.Mohammed Imran, learned Counsel appearing for the petitioner and Mr.V.Omprakash, learned Government Advocate (Civil Side) appearing for the respondents and perused the records.

7. On perusal of the charges and the reply of the petitioner it seen that the charges are framed based on the enquiry preferred against co-delinquent. The Charge No.1 against the petitioner is that he had misbehaved with the students of 9th to 12th standards. The Headmaster (in charge) has given a reply that no written complaint against the petitioner was received in the past 7 years. The contention of the petitioner is that the enquiry officer has conducted the enquiry only with the students of 11th and 12th standards and there was no enquiry at all against the petitioner from



the students of 9th and 10th standards and the petitioner was only taking class for 9th and 10th standards and he was not taking class for 11th and 12th standards. The second allegation against the petitioner is that he has engaged in illegal activities. The Headmaster of the school has specifically stated that the computer room was kept open after school hours only if the same is necessary. The Headmaster has also stated that the key was under his control and the office computers were only used by the Junior Assistant one Karthik and the computer teacher. Charge No.3 is that the petitioner has threatened the students with reduction of marks in practical examinations. The practical examinations was conducted by the one Mohanraj, Headmaster (in charge) and no complaint was received in this regard. The fourth charge against the petitioner is that the petitioner has challenged the Headmaster (in charge) that he cannot conduct the practical examination without the petitioner's assistance. However, there is no complaint against the petitioner and the same is recorded in the charge itself. As per the charge No.5, the petitioner was irregular in attending the school and has manipulated the attendance register. The contention of the petitioner is that no complaint was made to the District Educational Officer or the Chief Educational Officer during their visit to the school at the relevant point of time and hence, the fifth charge is created for the sake of other charges. As far as the sixth charge is concerned, the allegations against the petitioner is that the petitioner has deviated from his official duty as a teacher in teaching good virtues to the children and acted in a manner against the Service Rules.



8. It is seen that the charges against the petitioner and the co-delinquent is that they misbehaved with the students. If misbehaved against the students the proper action would be to initiate action under POSCO provisions, but the respondents have not taken any action under the said provisions.

9. The co-delinquent namely one Palanivel had preferred a writ petition in W.P. (MD)No.24939 of 2016, challenging the punishment of dismissal from service and this Court vide order dated 24.03.2022, has modified the punishment into one as compulsory retirement.

10. The contention of the petitioner is that there is no complaint received from the girls students at all. The complaints against the petitioner is that the petitioner has misbehaved with the girl students and it is only a hearsay complaint and the exact victim was not even point out. The petitioner also contended that there is no evidence against him and the alleged act did not happened at all. The respondents have stated that the teachers and students deposed before the enquiry officer but the said depositions clearly state that the students have narrated what was heard by them as hearsay and not even a single victim is there and none had deposed about the alleged acts.

11. The petitioner submitted that he is 50 years old as on today and he is having two daughters and the allegations against the petitioner is a stigma in the



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society. The petitioner also submitted that the allegations against one Mr.Palanivel was genuine and the enquiry proceedings were initiated against the said Palanivel. The petitioner is only a co-delinquent. The contention of the petitioner is that in the case of Palanivel, this Court has passed an order modifying the punishment of dismissal from service into compulsory retirement. Thereby, the petitioner prays that the same punishment may be awarded to him also.

12. Considering the facts and circumstances of the case and the order dated 24.03.2022, passed by this Court in W.P.(MD) No.24939 of 2016 against the co-delinquent, this Court is inclined to consider the prayer of the petitioner and in order to avoid the stigma against the petitioner, the punishment of dismissal from service is modified as Compulsory Retirement.

13. The respondents shall implement the order within a period of 6 weeks from the date of receipt of copy of this order and shall disburse the consequential terminal benefits to the petitioner.

14. With the above directions, this Writ Petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

07.07.2022

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To

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S.SRIMATHY, J

csn

Order made in
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