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W.P.(MD)No.12836 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2022

CORAM

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

W.P.(MD)No.12836 of 2014

P.Manas

... Petitioner

vs.

- 1.The Secretary to Government,
Public Work Department,
Secretariat, Chennai-600 009.
- 2.The Chief Engineer,
Public Work Department,
Chepauk, Chennai-600 005.
- 3.The Superintendent of Engineer,
Public Work Department,
Water Resource Organization,
Thambarani Division, Tirunelveli.
- 4.The Executive Engineer,
Public Work Department,
Water Resource Organization and
Sea Erosion Preventive Division,
Nagercoil, Kanyakumaro District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 1st respondent in G.O.Ms.(d)No.340, Public work (f2) Department, dated 21.08.2009 and to quash the same as illegal and consequently, to direct the respondents to pay the increment it was stopped for 1 year without cumulative effect and other related benefits to the petitioner.

For Petitioner : Mr.D.Anbarasu
For Respondents : Mr.Muthu Vijayan
Special Government Pleader

ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, to quash the impugned order dated 21.08.2009 passed by the 1st respondent in G.O.Ms.(d)No.340, Public work (f2) Department and consequently, to direct the respondents to pay the increment it was stopped for 1 year without cumulative effect and other related benefits to the petitioner.

2. The petitioner's residence was nearby Government Middle School,



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Madichal, wherein the petitioner has studied and as well as his children were also studying in the same School. The petitioner was more interested in developing the School and he was a well-wisher in the said area. Therefore, he was selected as President of Parent Teachers Association from 08.03.1997 to 2000 and 2000 to 2003.

3. The contention of the petitioner is that as a President, he contributed for more developments. After getting promotion from the Department, he was appreciated by the local area public as well as Government authorities. The petitioner further contended that several anti-social elements created various type of problems, while he was developing the school. In G.O.Ms.No.242, School Science and Technology (C2) Department, dated 28.04.2004, has given more Right to the President of Parent Teachers Association to do the development work effectively and sincerely. Subsequently due to anti-social elements, a false complaint was lodged against the petitioner. The respondents have initiated disciplinary proceedings and finally, imposed a punishment of stoppage of



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increment for one year without cumulative effect. Challenging the same, the present writ petition is filed.

4. The 1st respondent has filed a counter affidavit stating that under Rule 5 read with Rule 20 of Tamil Nadu Government Servants Conduct Rules, 1973, the Government servants shall not accept contributions or otherwise associate themselves with rising funds in either collection in cash or accounts from any person or persons whatsoever. Since the petitioner had collected, thereby, has violated Rule 20 integrated and deviation to the duty. Moreover, the petitioner has not obtained any prior permission from the authorities for collecting such fund.

5. The 4th respondent has also filed a counter affidavit stating that the petitioner after the lapse of the period of President has collected the amount and has violated the rule of Tamil Nadu Government Servants Conduct Rules. The petitioner himself has accepted that he has not obtained prior permission. In fact, the Parent Teacher Association has made declaration in the meeting held on



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02.06.2000 and 27.12.2001 that the petitioner did not submit the account details properly. The petitioner also continued in the Association and was holding the post in spite of his child was relieved from the said school in the year 1998. Therefore, after conducting enquiry, the present impugned punishment was imposed on the petitioner. Hence, the respondents prayed to dismiss the petition.

6. On perusing the Rule, this Court is of the considered opinion if the petitioner is involved in collection of any money and started any Association within the Department then the said rule would be attracted. In the present case, the petitioner being a parent of his son was elected as a President of Parent Teachers Association, which has nothing to do with the petitioner's Department where he is serving as a Government servant. If the accounts are not properly submitted by the petitioner in the Parent Teachers Association, it is the Association who is the appropriate person to take action against the petitioner. Invoking the rule under the Tami Nadu Government Servants Conduct Rules is not appropriate. Moreover, it seen from the records that the petitioner has



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contributed under the Parent Teachers Association to the school and has developed the school. The petitioner also submitted that being an alumnus of the said school, he was taking more interest in developing the said school. Therefore, this Court is inclined to set aside the impugned order and the impugned order is set aside. The respondents shall pay the increment which was stopped for the petitioner. The said exercise shall be completed within a period of 4 weeks from the date of receipt of your copy of this order.

7. With the above said observation, the writ petition is allowed. No costs

Index : Yes / No
Internet : Yes
Tmg

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