



W.P.(MD)No.13002 of 2014

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2022

CORAM

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

**W.P.(MD)No.13002 of 2014**

**and**

**M.P.(MD)No.1 of 2014**

Nadar Primary School,  
represented by its Secretary,  
Karisalkulam,  
Vilathikulam Taluk,  
Thoothukudi District.

... Petitioner

*(Earlier Secretary name deleted, vide  
Court order, dated 14.12.2022, in W.M.P.  
(MD)No.14216 of 2022 in W.P.(MD)No.  
13002 of 2014)*

vs.

- 1.The Joint Director of School (Elementary Education),  
College Road, Chennai – 600 006.
- 2.The Chief Educational Officer,  
Thoothukudi District,  
Thoothukudi.



W.P.(MD)No.13002 of 2014

WEB COPY

3.The District Educational Officer,  
Thoothukudi District, Thoothukudi.

4.The Assistant Educational Officer,  
Vilathikulam Range, Vilathikulam,  
Thoothukudi District-628 907.

5.A. Amalamary Pushpa

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the entire proceedings of the 1<sup>st</sup> respondent in his proceedings Na.Ka.No.012663/H4/2013, dated 14.06.2013 and to quash the same as illegal and further, to direct the 3<sup>rd</sup> and 4<sup>th</sup> respondents to counter sign the entries in the service register of the 5<sup>th</sup> respondent recording the minor punishment imposed by the petitioner's school.

|                |                                                    |
|----------------|----------------------------------------------------|
| For Petitioner | : Mr.P.Pethu Rajesh                                |
| For R1 to R4   | : Mr.D.Sadiq Raja<br>Additional Government Pleader |
| For R5         | : Mr.K.Radha Krishnan                              |
|                | *****                                              |

### **ORDER**

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, to quash impugned proceedings dated 14.06.2013 and further, to direct the 3<sup>rd</sup> and



W.P.(MD)No.13002 of 2014

WEB COPY

4<sup>th</sup> respondents to counter sign the entries in the service register of the 5<sup>th</sup> respondent recording the minor punishment imposed by the petitioner's school.

2. The brief facts of the case are that the 5<sup>th</sup> respondent is an employee of the petitioner school and she was appointed as Secondary Grade Teacher. The 5<sup>th</sup> respondent committed certain irregularities for which the petitioner school has issued show cause notice and initiated disciplinary proceedings. The 5<sup>th</sup> respondent was assigned to take class for 1<sup>st</sup> standard, but she unilaterally conducted the 1<sup>st</sup> standard in the class of 4<sup>th</sup> standard B section without any permission from the Headmistress. The other allegations are that the 5<sup>th</sup> respondent's husband has used filthy words and threatened the Secretary of the school in the presence of Office Assistant, Accountant and other staff members. Likewise, the 5<sup>th</sup> respondent's husband has abused the School Secretary on three or more occasions. For all these charges, the 5<sup>th</sup> respondent was facing disciplinary proceedings.



W.P.(MD)No.13002 of 2014

WEB COPY

3.The contention of the petitioner is that the School has issued notice to appear for enquiry. However, the 5<sup>th</sup> respondent did not receive the same in the address in which the 5<sup>th</sup> respondent was supposed to be stationed, at the time of suspension. Therefore, the notice issued for enquiry was received belatedly by the 5<sup>th</sup> respondent in her native place. After conducting the enquiry, the School has imposed a punishment of stoppage of increment for two years without cumulative effect. The School submitted the disciplinary proceedings and sought permission to impose the punishment. Since the respondents have not granted any permission, the petitioner had filed a writ petition before the Principal Seat of Madras High Court. The Learned Single Judge has held that the suspension is unwarranted and directed the School to pay the subsistence allowance. Aggrieved over the same, the School preferred a writ appeal and the writ appeal was dismissed granting liberty to file an appeal and thereafter the petitioner School has filed an appeal wherein the Joint Director has passed an impugned order directing the School to pay subsistence allowance from their own source of money. Aggrieved over the same, the present writ petition is filed.



W.P.(MD)No.13002 of 2014

WEB COPY

4. In the meanwhile, the 5<sup>th</sup> respondent was transferred under deputation order to some other nearby School and the 5<sup>th</sup> respondent is serving in the transferred post. Subsequently, she was transferred to various other places. As on date, the School is under direct recruitment under the control of District Educational Officer. In the impugned order passed by the Joint Director states that the petitioner School has not participated in the enquiry proceedings in spite of notice issued by the School. However, the contention of the petitioner is that the Joint Director has granted only 3 days time from the date of receipt of the notice and 2 days was falling on holidays. The Secretary of the School being above the age of 65, he was not in a position to attend the proceedings immediately. Therefore, the impugned order is passed without granting sufficient opportunity to the School. Therefore, the petitioner school sought to remit back to the Joint Director in order to conduct fresh enquiry and pass a speaking order.

5. After hearing the rival submissions of the learned Counsels, this Court has given its anxious considerations on the issues. The 5<sup>th</sup> respondent is already



W.P.(MD)No.13002 of 2014

WEB COPY

transferred under deputation order to some other private School. As on date, there is no employer employee relationship between the petitioner School and the 5<sup>th</sup> respondent. Therefore, if the matter is remitted back to the authorities, it will not serve the purpose.

6. The contention of the 5<sup>th</sup> respondent is that the action of the 5<sup>th</sup> respondent's husband cannot be fasten on the 5<sup>th</sup> respondent and prayed not to impose any punishment. After considering the rival claims this Court is inclined to modify the punishment of the 5<sup>th</sup> respondent as stoppage of increment for three months. As far as subsistence allowance is concerned, in order to put an end to the litigation among the parties, this Court is directing the District Educational Officer to regularize the suspension period as duty period and pay subsistence allowance from the grant-in-aid. The said punishment of 3 months period shall be implemented and consequential service and monetary benefits shall be conferred to the 5<sup>th</sup> respondent. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.



W.P.(MD)No.13002 of 2014

WEB COPY

7. With the above said observation, the writ petition is disposed of.

Consequently, connected miscellaneous petition is closed.

Index : Yes / No

**14.12.2022**

Internet : Yes

Tmg

To

- 1.The Joint Director of School (Elementary Education),  
College Road, Chennai – 600 006.
- 2.The Chief Educational Officer,  
Thoothukudi District,  
Thoothukudi.
- 3.The District Educational Officer,  
Thoothukudi District, Thoothukudi.
- 4.The Assistant Educational Officer,  
Vilathikulam Range, Vilathikulam,  
Thoothukudi District-628 907.



WEB COPY



W.P.(MD)No.13002 of 2014

**S.SRIMATHY, J**

Tmg

W.P.(MD)No.13002 of 2014

14.12.2022