



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.24243 of 2018

and

W.M.P. (MD) .No.21928 of 2018

A.Rajanayagam

... Petitioner

Vs.

1.The Joint Director,
(Vocational Education),
School Education Department,
College Road,
Chennai - 600 006.

2.The Headmaster,
Government Higher Secondary School,
Kalugumalai,
Thoothukudi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in connection with the impugned order of punishment passed by him in his proceedings in Na.Ka.No.2642/V1/E3/2013 dated 11.04.2017 and consequential impugned order of treating the suspension period in Na.Ka.No.056870/V1/E3/2017, dated 06.06.2018 and the impugned order passed by the second respondent in Na.Ka.No.86/2018, dated 13.07.2018 and quash all as illegal and ultra vires and thereby direct the respondents to treat the period of suspension as duty period and pay all salary and monetary benefits attached to the said period (12.02.2013 to 30.08.2014) including all other benefits within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.V.Om Prakash,
Government Advocate (Civil Side)

ORDER

The petitioner was appointed as Part Time Vocational Instructor on 08.08.1979 and absorbed as Vocational Teacher on 01.04.1980. On 10.01.2014, a charge memo was issued under 17 (b) on



three counts. The petitioner submitted a representation dated 24.02.2014 requesting to provide the 13 documents relating to Charge No.1 and 16 documents relating to Charge No.2 and 7 documents relating to Charge No.3 so as to enable him to submit proper explanation. Since the same was not granted the petitioner filed a Writ Petition in W.P. (MD). No. 10871 of 2015 praying to direct the respondents to furnish the documents and this Court vide order dated 01.07.2015 directed the respondents to furnish the documents within three weeks and complete the enquiry within a period of thirteen weeks. Since the respondents furnished only some of the documents, the petitioner preferred Contempt Petition. But the Contempt Petition was closed based on the submission of the Government Pleader that they have furnished the documents to the petitioner.

2. The next contention of the petitioner is that he was paid only 50% of subsistence allowance while he was kept under suspension for 18 ½ months. In order to enhance the subsistence allowance, the petitioner was constrained to file another Writ Petition in W.P.(MD).No.1316 of 2016 and this Court directed the respondents to consider and pass orders within four weeks. In spite of thirteen weeks, the respondents did not complete the enquiry proceedings. Therefore, the petitioner filed another Writ Petition in W.P. (MD). No. 17378 of 2016 to quash the charge memo and this Court vide order dated 07.02.2017 directed the first respondent to complete the disciplinary proceedings on day-to-day basis without adjourning the matter beyond five working days. Therefore, a full-fledged enquiry was conducted and charges of 17 (b) was converted into 17 (a) and the petitioner was imposed with the punishment of 'warning' vide impugned proceedings in Na.Ka.No.2642/V1/E3/2013 dated 11.04.2017. The petitioner has also challenged the order dated 13.07.2018 whereby the suspension period was regularized by treating the period as loss of pay. Aggrieved over the same, the present Writ Petition is filed.

3. The contention of the respondents are that the charges against the petitioner is that on 22.10.2012 the petitioner went on leave for twenty days, without considering the students future. During working hours, the petitioner was staying only in staff room and has not taken any class to the weak students. The petitioner has not obeyed the orders of Headmaster and the standard of Vocational Education was very much slow and inviting the objections from the parents. Prior to deputation order, when the petitioner was working in Tiruchendur Government High School, the petitioner without going to the class room, he has joined with other teachers and had sought information from the right to information Act. The petitioner was busy in other activities expect taking class, thereby the students cannot get appropriate vocation training from the petitioner and they were failed in that subject. Hence, the respondents have taken action against the petitioner and prayed to dismiss the writ petition.



4. Heard Mr.G.Thalaimutharasu, learned counsel for the petitioner and Mr.V.Om Prakash, learned Government Advocate (Civil Side) for the respondents.

5. It is seen from the documents that the charge memo initially issued under 17(b), when enquiry was conducted it is converted into 17(a) and the disciplinary authority imposed punishment as 'warning'. The contention of the learned counsel of the petitioner is that 'warning' is not contemplated under any Act and therefore, imposition of warning is illegal. But this Court is of the considered opinion that the warning is not at all affecting the petitioner in any way. The petitioner is 60 years of age and he has already attained superannuation and retired from service. As far as regularization of suspension period as loss of pay for 18½ months is concerned, it is surely affecting the petitioner's terminal benefits. Therefore, this Court is of the considered view that the suspension period shall be regularized as duty period and the respondents are directed to grant all the terminal benefits considering the suspension period as duty period. Therefore, this Court is inclined to partly allow the Writ Petition.

6. Accordingly, this Writ Petition is partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Nsr

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Joint Director,
(Vocational Education),
School Education Department,
College Road,
Chennai - 600 006.



2.The Headmaster,
Government Higher Secondary School,
Kalugumalai,
Thoothukudi District.

+1 CC to M/s.SPL GP (SR-10556[F] dated 08/03/2022)

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-10835[F] dated
09/03/2022)

**W.P. (MD) .No.24243 of 2018
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RD(31.03.2022) 4P 5C