



WEB COPY

W.P.(MD)No.13904 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.13904 of 2018

and

W.M.P. (MD)Nos.12624 & 12625 of 2018

Mrs.P.Seethapiratti

... Petitioner

vs

1. The Joint Director,
Department of Elementary Education,
College Road, Chennai-06.

2. The District Elementary Educational Officer,
O/o. The District Elementary Educational Officer,
Pudhukottai, Tuticorin.

3. The Assistant Elementary Educational Officer,
Karungulam Union,
Tuticorin District.

4. The HeadMistress,
Hindu Jeaylakshmi Middle School,
Kilakulam, Karungualm Union,
Tuticorin District.

... Respondents

***(R4 is Suo Motu impleaded, vide Court order,
dated 23.12.2021 in W.P(MD)No.13904 of 2018)***

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 impugned order in Na.ka.No.211/A1/2015 dated 19.04.2018 on the file of the third respondent and quash the same as illegal and consequently, direct the respondents 1 to 3 to disburse arrears of salary and other benefits for the period 17.02.2011 to 16.06.2011 and 21.11.2011 to 27.09.2012 along with interest within the time frame stipulated by this Court.

For Petitioner : Mr.Karthik
for Mr.T.Lajapathi Roy

For Respondents : Mr.N.GA.Natraj for R1 to 3
Assistant Government Pleader

No appearance for R4

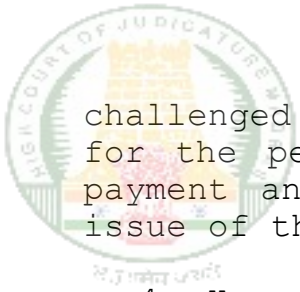


O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to call quash the impugned order, dated 19.04.2018 on the file of the third respondent and consequently, direct the respondents 1 to 3 to disburse arrears of salary and other benefits for the period 17.02.2011 to 16.06.2011 and 21.11.2011 to 27.09.2012 along with interest within the time frame stipulated by this Court.

2. The petitioner was working as Secondary Grade Teacher in Hindu Jeyalakshmi Middle School, Kilakulam, from 04.06.1985, thereafter as Headmistress in the said School. When the Superintendent of Regional Development Centre, Karunkulam has sent a letter calling upon the Primary Teachers of the School to attend the "Science Training to be held at the Centre in two batches, the first on 27th and 28th and the second batch from 31.01.2011 to 01.02.2011 of January 2011, the petitioner being the Headmistress has sent Mrs. C. Tamilselvi to attend the training in the second batch i.e., 31.01.2011 to 01.02.2011. Thereafter, the Secretary has issued a show cause notice, dated 01.02.2011 to explain why the petitioner has sent the said Tamilselvi for the Science Training without his permission. The petitioner submitted her reply dated 03.02.2011 explaining that she sent Tamilselvi on good faith and there is no intention. The said Teacher Tamilselvi also submitted a letter dated 02.02.2011 to the Secretary that she had failed to get permission from the Secretary before leaving to attend the Science Training and submitted that she would get prior permission in future. The Secretary has issued a show cause notice, dated 08.02.2011 and 09.02.2011 accusing the petitioner has involved in conspiracy against the School, joining hand in glow with the Assistant Elementary Education Officer. The petitioner sought two days time to submit her reply and she submitted a representation dated 15.02.2011.

3. In the meanwhile, the Secretary has issued the suspension order, dated 17.02.2011 and a Charge Memo, dated 18.02.2011 leveling four charges against the petitioner. The petitioner has filed a writ petition in W.P.(MD)No.2314 of 2011 challenging the suspension order. The second respondent has passed an order, dated 11.04.2011, directing the Secretary to cancel the order of suspension, but the first respondent did not obey the order of the second respondent. Further on 23.05.2011 and 02.06.2011, the petitioner again submitted a representation. In the meanwhile, the Secretary issued the proceedings dated 31.02.2011, contrary to the direction issued by the second respondent and also against the petitioner for her willful disobedience. Thereafter, the Secretary passed an order cancelling the earlier order of suspension dated 17.02.2011 and reinstated the petitioner into service. Again the petitioner was placed under suspension on 21.11.2011, likewise, the petitioner was placed under suspension for four spells and each spell was



challenged by way of writ petitions. The learned Counsel appearing for the petitioner has submitted that the school is under direct payment and it was brought under direct payment because of this issue of the writ petitioner.

4. Heard Mr.Karthik, the Learned Counsel for the petitioner and Mr.N.GA.Natraj Learned Assistant Government Pleader for R1 to 3

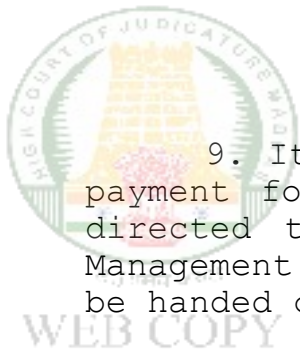
5. On perusing the papers it is seen from the records that each spell of suspension was regularized by passing an order dated 19.04.2018, wherein, the petitioner's earned leave and salary were deducted. The impugned order states as under:

- “1. 17.02.2011 முதல் 16.06.2011 முடிய 120 நாள்கள்-ஈட்டிய விடுப்பு
2. 21.11.2011 முதல் 01.12.2011 முடிய 11 நாள்கள்-ஈட்டிய விடுப்பு
3. 02.12.2011 முதல் 29.05.2012 முடிய 180 நாள்கள்-சொந் அலுவலுக் கான அரைச் சம்பளத் துடன் கூடிய ஈட்டா விடுப்பு
4. 30.05.2012 முதல் 27.09.2012 முடிய 121 நாள்கள்- ஊதியம் இல்லா விடுப்பு”

6. These four spells of suspension for the same cause of action shows the harsh attitude of the School. The official respondents had also advised the school to reinstate the petitioner, but the management had refused to reinstate. For not obeying the orders of the official respondents, the management was brought under direct payment. This has aggravated the situation further and reflected while regularizing the said period of suspension. The four spell of suspension period was adjusted against earned leave and rest of the period as loss of pay.

7. The private aided school has power to suspend the employee only for 2 months and then after obtaining permission from the authorities for further 2 months. In this case the school has not obtained such permission for further extension. Moreover, the allegation against the petitioner is that she did not obtain any prior permission from the Secretary of the school for sending a teacher for “Science Training”, for which suspension for four spells is absolutely vindictive.

8. Therefore, this Court is of the considered view that the four spells ought to be considered as duty period. Now the school is under direct payment. Therefore, the Official respondents are directed regularize the four spells of suspension period as duty period. The consequential salary and other benefits shall be disbursed to the petitioner by the Official respondents and the said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.



9. It is seen from the records that the School is under direct payment for more than ten years. Therefore, the respondents are directed to consider the issue of direct payment also. If the Management can be function in accordance to law, then the School may be handed over to the Management.

10. With this above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

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,
Department of Elementary Education,
College Road, Chennai-06.
2. The District Elementary Educational Officer,
O/o. The District Elementary Educational Officer,
Pudhukottai, Tuticorin.
3. The Assistant Elementary Educational Officer,
Karungulam Union,
Tuticorin District.

+1 CC to M/s.SPL GP (SR-6757[F] dated 17/02/2022)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-6654[F] dated 17/02/2022)

W.P. (MD)No.13904 of 2018

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RD(23.03.2022) 4P 6C