



W.P.(MD)No.9622 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2022

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.9622 of 2015

and

M.P.(MD)Nos.2 & 3 of 2015

The Hindu Primary School,
represented by its Secretary,
K.Athisayamary,
Veerapandian, Panagudi,
Tirunelveli District.

... Petitioner

Vs.

1. The Joint Director of Elementary Education,
(Aided Schools and Appellate Authority)
Directorate of Elementary Education,
DPI Campus, College Road,
Chennai.
2. The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.
3. The Assistant Elementary Educational Officer,
Valliyoor, Tirunelveli District.
4. S.Chandrasekaran

... Respondents



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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 relating to the proceedings of the impugned order in Na.Ka.No.16579/G1/2014, dated 10.04.2015, on the file of the first respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For R1 to R3 : Mr.C.Baskaran
Government Advocate

For R4 : Ms.Benazir Begum

ORDER

This Writ Petition is filed challenging the impugned order, dated 10.04.2015 passed by the first respondent.

2. The fourth respondent was working as Headmaster in the petitioner School. The petitioner School is running a Non-minority Aided Institution. The contention of the petitioner is that the fourth respondent while serving as Headmaster indulged in activities detrimental to the



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interest of the school. The fourth respondent along with one more person, who is working as Secondary Grade Teacher, namely, Kasthuri, had indulged in activities detrimental to the interest of the school. The petitioner School initiated departmental proceedings alleging nine grave charges and placed the fourth respondent under suspension. Thereafter, the official respondent granted permission for the suspension period on 19.08.2009. The School subsequently proceeded with the enquiry proceedings. After granting sufficient opportunity to the fourth respondent, the school proposed to impose punishment of dismissal from service as per the Tamil Nadu Private Schools Regulation Act and the proposal was submitted for approval and the District Elementary Educational Officer passed an order on 12.07.2010. Aggrieved over the said order, the fourth respondent has preferred an appeal before the Joint Director of Elementary Education. The Joint Director confirmed the order passed by the District Elementary Educational Officer. The petitioner had preferred a writ petition in the meanwhile as well as submitted to Review Application to the Joint Director. In the Review Order, the Joint Director modified the punishment as “Compulsory



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Retirement”. The petitioner School is aggrieved by such order and filed this writ petition.

3. The primary ground raised before this Court is that the Joint Director is a “Review authority” and not the “Appellate Authority”. Moreover the fourth respondent has filed an appeal before the Joint Director and the Joint Director has entertained an appeal as well as entertained the Review application and has passed Appellate order as well as the Review order.

4. The learned Counsel appearing for the fourth respondent has filed a counter affidavit elaborating the events and submitted that the petitioner has preferred an appeal before the Joint Director and fairly submitted that the Joint Director is not the Appellate Authority. However, the Joint Director has entertained the Appeal. The Joint Director ought to have directed the fourth respondent to prefer an appeal before the Chief Educational Officer (CEO). Therefore, the learned Counsel for the fourth respondent prayed to consider the case of the



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fourth respondent because the fourth respondent as on date is 69 years old.

5. Heard Mr.G.Prabhu Rajadurai, Learned Counsel appearing for the petitioner, Mr.C.Baskaran, learned Government Advocate appearing for the respondents No.1 to 3 and M/S.Benazir, learned Counsel appearing for the fourth respondent and perused the records.

6. It is an admitted fact that the Joint Director is not the Appellate Authority, he is only a Review Authority and the Chief Educational Officer is the Appellate Authority as per the Tami Nadu Private Schools Regulation Act. As rightly pointed out by the Learned Counsels appearing for the petitioner as well as fourth respondent, the Joint Director ought not to have entertained an appeal, but ought to have directed the fourth respondent to file an appeal before the Chief Educational Officer. Having entertained the appeal, the Joint Director again has committed an error by reviewing his own order.



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7. However at this stage based on the technical plea the fourth respondent cannot be directed to file an appeal before Chief Educational Officer, since the fourth respondent is 69 years old. Therefore, this Court entertains this writ petition.

8. On perusing the documents and orders passed by the Authorities, it is seen that the petitioner was suspended on 19.06.2009. The official respondents have granted approval for the suspension on 19.08.2009. Therefore, the fourth respondent is entitled to subsistence allowance for the period of four months as stated in the Tamil Nadu Private School Regulation Act.

9. On perusing the order passed by the District Elementary Educational Officer, dated 12.07.2010, the authority has approved for subsistence allowance for the rest of the period beyond four months period. Therefore, the fourth respondent is entitled to subsistence allowance for the period after four months period as well. Therefore, this Court is inclined to pass the following order:



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(i) The fourth respondent is entitled to subsistence allowance from 19.06.2009 until the date of dismissal.

(ii) As far as the modification of punishment is concerned, even though the first respondent has passed an order without any authority or jurisdiction, this Court in exercise of its power under Article 226 by taking into consideration of the age of the fourth respondent, the punishment of compulsory retirement is confirmed.

(iii) The petitioner is directed to submit the proposal for terminal benefits and prepare pension papers and submit before the official respondents within a period of four (4) weeks from the date of receipt of a copy of this order.

(iv) Thereafter, the official respondents shall process the same and complete it in another four weeks therefrom.

10. With the above said direction, this Writ Petition is disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes / No
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S.SRIMATHY, J

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