



W.P.(MD).No.24454 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:22.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.(MD).No.24454 of 2016

and

W.M.P.(MD).No.17650 of 2016

M.Rajaselvam

... Petitioner

vs.

1.The District Educational Officer,
Madurai,
Madurai District.

2.The Assistant Elementary Educational Officer,
T.Vadipatti,
Madurai District.

3.The Kamarajar Middle School,
represented by its Headmaster,
Sholavandan,
Madurai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records on the file of the second respondent pertaining to its proceedings in Na.Ka.No. 1097/A2/2016, dated 10.11.2016 and to quash the same.



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For Petitioner

: Mr.S.C.Herold Singh

For R1 & R2

: Mr.V.OM Prakash

Government Advocate

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorari to call for the records on the file of the second respondent pertaining to the proceedings in Na.Ka.No.1097/A2/2016, dated 10.11.2016 and to quash the same.

2. The main grievance of the learned counsel for the petitioner is that the petitioner was issued a show cause notice dated .10.2016, asking him to produce the following documents:

(i) Copy of the permission granted by the Secretary to School Education with the counter signature of Assistant Educational Officer giving permission to the petitioner to pursue B.Ed., course.

(ii) Copies of B.Sc., M.Sc., and B.Ed., educational qualification certificates.

(iii) As per the information furnished by the Principal of Vellaisamy Nadar College, Madurai, dated 26.04.2007, the petitioner has



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studied B.Ed., course from 26.04.2007 to 24.12.2007 for 243 days.

However, leave was sanctioned only for the period 07.06.2007 to 25.11.2007 for 173 days. The petitioner has to explain the leave availed for the period 26.04.2007 to 06.06.2007 for 42 days and 26.11.2007 to 24.12.2007 for 29 days.

3. The petitioner has sent a reply dated 18.10.2016 to the Assistant Educational Officer through the Headmaster stating that he had applied for copy of his service register for replying to the show cause notice. He also requested the Assistant Educational Officer to help him in getting copy of the service register for giving reply to the show cause notice. However, he was not furnished the copy of the service register. Therefore, reply could not be given. Consequently, the second respondent passed the impugned order cancelling the grant of increments, as per the proceedings in Na.Ka.No.1097/A2/2016, dated 10.11.2016. This proceedings of Assistant Educational Officer is contrary to the principles of natural justice. He was penalised without affording an opportunity to respond. Since he had no documents available with him, he was not able to furnish the details. Thus, he prayed for setting aside the proceedings in Na.Ka.No.1097/A2/2016, dated



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10.11.2016.

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4. In response, the learned Government Advocate appearing for the respondents submitted that the petitioner ought to have obtained permission from the second respondent for pursuing further higher education. The permission granted by the Correspondent of the School is not in accordance with law. That apart, leave was sanctioned for 173 days from 07.06.2007 to 25.11.2007. The course commenced from 26.04.2007 and ended with the examination on 24.12.2007. There is no explanation for the leave availed by him for the period 26.04.2007 to 06.06.2007 and 26.11.2007 to 24.12.2007. During this period, the petitioner had worked in the College and received salary. This is against the Rule. He must be having the documents referred to in the show cause notice. However, only with a view to avoid giving reply to the show cause notice, he sought copy of the service register, which is impermissible. Therefore, this petition has no merits and the same is liable to be dismissed.

4. Considered the rival submissions and perused the records.

5. Though the learned counsel for the petitioner canvassed this



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writ petition on merits that the impugned proceedings is not in accordance with law, during the course of submission, he narrowed down the scope of this writ petition and confined the prayer with regard to grant of an opportunity to respond to the show cause notice.

6. It is not in dispute that the petitioner had not replied to the show cause notice. It is also not in dispute that he was permitted by the third respondent to pursue higher education i.e, B.Ed., It is also not dispute that he was granted increments for acquiring B.Ed.

7. Considering the fact that he could not reply for the reason that he was not in possession of the documents, this Court is of the considered view that an opportunity may be given to the petitioner to respond to the impugned show cause notice and for the authorities to pass appropriate orders on the basis of his explanation.

8. In this view of the matter, this Court directs the petitioner to give reply to the impugned show cause notice within a period of four weeks from the date of receipt of a copy of this order and then the authorities concerned is directed to pass orders, on perusing the reply



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given by the petitioner to the show cause notice. It is made clear that this Court has not set aside the order passed in Na.Ka.No.1097/A2/2016, dated 10.11.2016 and this Court gives only an opportunity to the petitioner to give reply and to pass further orders either to confirm the earlier order passed or to pass a revised order. The second respondent is also directed to furnish necessary details required by the petitioner from his service register for him to offer his explanation. Accordingly, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

22.06.2022

akv

To

- 1.The District Educational Officer,
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- 2.The Assistant Elementary Educational Officer,
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- 3.The Kamarajar Middle School,
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6/7



Madurai District.

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G.CHANDRASEKHARAN,J.

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