



WEB COPY

W.P.(MD)No.24939 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2022

CORAM

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

**W.P. (MD)No.24939 of 2016**

**and**

**W.M.P (MD)No.18039 of 2016**

A.Palanivelu

... Petitioner

vs

1.The Joint Director of School Education  
(Higher Secondary),  
DPI Campus,  
College Road,  
Chennai-600 006.

2.The Chief Educational Officer,  
Trichy District,  
Trichy.

3.The Enquiry Officer and  
the Chief Educational Officer,  
Pudukkottai District,  
Pudukkottai.

4.P.Vasantha

5.The Headmaster,  
Govt.Girls Higher Secondary School,  
Musiri,  
Trichy District.

6.The Headmaster,  
Govt.Boys Higher Secondary School,  
Pugalur,  
Karur District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned punishment order Pa.Mu.No.013048/W.2/C.3/2015, dated, 05.12.2016, passed by the 1<sup>st</sup> respondent and quash the same and consequently, grant all the service and monetary benefits within a time limit to be fixed by this Court.

For Petitioner : Mr.N.Shanmuga Selvam

For Respondents : Mr.V.Om Prakash

Government Advocate(Civil Side)



**O R D E R**

This petition has been filed challenging the impugned order, dated, 05.12.2016 and consequently grant all the service and monetary benefits. Through the impugned order, the petitioner was punished with "dismissal from service".

2. The brief facts of the case is that the petitioner is qualified as M.Sc., M.Phil., Ph.D., in Botany Subject and he was appointed as P.G Assistant on 15.10.1998. The petitioner attained superannuation on 31.03.2017. The petitioner took class to 11<sup>th</sup> and 12<sup>th</sup> standard students. The contention of the petitioner is in view of the household works being done by the girl students at home in the morning in the rural area and they are not able to concentrate for morning studies. The petitioner organized morning study hours at the school prior to commencement of regular classes with the consent of the students and the 5<sup>th</sup> respondent-Headmaster of the school.

3. The contention of the petitioner is that there was no complaint from any student or parent and any colleague against the petitioner. However, the 2<sup>nd</sup> respondent issued a suspension order, dated, 17.02.2015, by making certain allegations against the petitioner that the petitioner scolded a girl student by using vulgar word and misbehaved with girl students and shown unscreened videos in the mobile phone and block mailed the student. On the same date, another Graduate Teacher in Science who works in the same school, namely, Senthilkumar was also placed under suspension, alleging sexual misbehaving with girl students. The District Educational Officer conducted preliminary enquiry with the staff and the students of the 5<sup>th</sup> respondent school based on the petition received from the Chief Minister Special Cell. After the preliminary enquiry, the District Educational Officer had received a report that the students did not make complaint or allegation against any teacher.

4. However, the 2<sup>nd</sup> respondent decided to conduct another enquiry by the 4<sup>th</sup> respondent. The 4<sup>th</sup> respondent secretly got statements from few girl students, making allegations against certain male teachers and whereas the Headmaster and the Co-teachers did not make any report against the petitioner and they did not support the alleged statements of the students. Except the secrete statements, there is no other report or complaint from any parents or the students against the petitioner. Thereafter, the Charge Memo was issued on 29.04.2015, alleging four charges against the petitioner. The petitioner submitted his explanation on 29.07.2015. Thereafter, Enquiry Officer was appointed. In the meanwhile, the petitioner was reinstated on 28.06.2016 in the 6<sup>th</sup> respondent-boys school.



5. According to the petitioner, the enquiry report was not served on the petitioner and another notice, dated, 01.11.2016 was issued to the petitioner for further explanation. According to the enquiry report, dated, 21.02.2016, the charge Nos.1,2,7 and 8 held to proved and the charge Nos.3,4,5,6 and 9 are not held to be proved and the charges are extracted hereunder:

*"3. Obscene video was shown to the girl students in the cell phone,*

*4. Block mailing the girl students who dis not accept the sexual advancement,*

*5. Remaining with a 11<sup>th</sup> standard student in a dark room,*

*6. Girl students were taken on my bike (motorcycle) and*

*9. Using the caste name"*

6. The contention of the petitioner is since the enquiry report was not served on the petitioner, he could not submit proper explanation. Even some of the students have stated that the petitioner has not behaved as alleged, inspite of all this evidence, the respondents have imposed punishment of "Dismissal from Service". Since there is a violation of principle, the petitioner has preferred this writ petition.

7. The respondents filed a counter and has stated that the petitioner was working as a P.G Assistant in the 5<sup>th</sup> respondent school. Many girl students studying in standards 9,10,11 and 12 in the month of January 2015. They had preferred a written complaint before the 2<sup>nd</sup> respondent, alleging ill treatment and sexual harassment by the teachers working in the school, namely, Senthil Kumar. As a result, the District Educational Officer was deputed by the 2<sup>nd</sup> respondent to enquire the above allegations. The girl students of the 5<sup>th</sup> respondent school submitted the complaint to the Chief Minister's Special Cell, which is forwarded to the 2<sup>nd</sup> respondent office vide., proceedings, dated, 11.02.2015. The 4<sup>th</sup> respondent also enquired the students as well as the teachers separately and had submitted a complaint against the said Senthil Kumar and the petitioner. Since the preliminary enquiry states certain allegations against the petitioner, it was decided to initiate disciplinary proceedings. Hence, the suspension order was issued. Thereafter, a Charge Memo was issued and after the enquiry, it was held some of the charges are proved. For the enquiry report, the petitioner submitted further explanation. Finally, the petitioner was imposed punishment of "Dismissal from Service". Since the allegations against the petitioner are serious, the respondents prayed for dismissing the writ petition.



8. Heard Mr.N.Shanmuga Selvam, learned counsel appearing for the petitioner and Mr.V.Om Prakash, Government Advocate(Civil Side) appearing for the respondents.

9. It is seen from the records that the petitioner is taking class for 11<sup>th</sup> and 12<sup>th</sup> standard, where girl students were studying in the school. Based on the evidence, disciplinary proceedings were initiated. The contention of the petitioner is that the respondents have not granted sufficient opportunity to the petitioner and after the enquiry, the report was not served on the petitioner in order to give proper explanation. The contention of the petitioner is that there are some other students, who have denied the allegations against the petitioner. The petitioner has stated in the affidavit that the statements of 17 students have been received by the 3<sup>rd</sup> respondent in a secret manner, which have been used to frame charges against the petitioner, whereas, the statements of 19 students, which is in favour of the petitioner has not been considered. Therefore, the petitioner claims that there is a non-application of mind and biased. However, the petitioner has not preferred any appeal to the higher authorities but has filed the present writ petition.

10. It is seen the charge against the petitioner is sexual harassment, which is serious one. The contention of the petitioner that the punishment of dismissal from service is not proportionate and will affect the petitioner and it is stigma in the society.

11. It is seen from the records that the petitioner was 57 years old at the time of filing this petition and now, he attained superannuation. If the matter is remitted back to conduct denova enquiry, it will not serve any purpose. Therefore, this Court is of the considered view that if the punishment is modified as compulsory retirement that would suffice. Accordingly, the punishment imposed as "Dismissal from Service" is modified into compulsory retirement. The respondents are directed to disburse the terminal benefits, which is applicable to the compulsory retirement punishment. The date of compulsory retirement is from the date of "Dismissal from Service". The said exercise shall be completed within a period of six months from the date of receipt of a copy of this order.

12. With the above said directions, this Writ Petition is disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

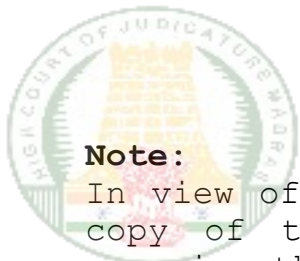
Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)



**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 of School Education  
(Higher Secondary),  
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Karur District.

+1 CC to M/s.SPL GP ( SR-14524[F] dated 25/03/2022 )

+1 CC to M/s.N.SHANMUGA SELVAM, Advocate ( SR-14817[F] dated 28/03/2022 )

**W.P. (MD) No.24939 of 2016**

**24.03.2022**

RK(12/04/2022) 5P 8C