



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 22.04.2022

PRONOUNCED ON : 02.06.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.3917 of 2016

and

W.M.P(MD) Nos.3507 and 6442 of 2016

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... Petitioner

-Vs-

1.The Director,
Director of School Education,
Chennai.

2.The Chief Educational Officer,
Chief Educational Office,
Dindigul, Dindigul District.

3.The District Educational Officer,
District Educational Office,
Dindigul, Dindigul District.

4.The Correspondent,
St.Josephs Girls Higher Secondary school,
Dindigul-624 001,
Dindigul District.

5.The Head Mistress,
St.Josephs Girls Higher Secondary School,
Dindigul-624001,
Dindigul 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 of the impugned order passed by the third respondent in Na.Ka.No.6385/A1/2015 dated 02.02.2016 and quash the same and direct the third respondent to reinstate the petitioner in service and consequently pay the service benefits notionally.

For Petitioner: Mr.M.Subash Babu

For R1 to R3 : Mr.V.Omprakash,
Government Advocate (Civil Side)

For R4 and R5 : Mr.T.Antony Arul Raj



ORDER

This Writ Petition is filed to quash the impugned order dated 02.02.2016 and to direct the third respondent to reinstate the petitioner in service and consequently, pay the service benefits notionally.

2.The brief facts of the case are as follows:

(i) The petitioner was appointed as a Maths Teacher in the fifth respondent school, which is an aided minority school. The petitioner served for the past 8 years. The petitioner was married and she took fertility treatment. Hence, the petitioner approached the fifth respondent school to grant permission to take leave without any salary. The contention of the petitioner is that the fifth respondent school ill-treated and scolded with unparliamentary words. Subsequently, the petitioner took treatment in Annai Velankanni Fertility Centre, Dindigul and she was advised by the Doctor to take rest for a period of one year for attaining the fertility. Therefore, once again the petitioner had approached the fifth respondent for leave, wherein, she was abused and threatened to leave the job under voluntary retirement. She was compelled to copy down a written letter which was prepared earlier and asked to sign the letter. The written letter contains as if the petitioner wishes to take voluntarily retirement and the voluntarily retirement letter was taken by force. Thereafter the petitioner's mother died 11.02.2015 which added to her mental strain apart from the mental strain suffered due to her forced voluntary retirement. After four months, i.e., on 16.06.2015, the petitioner gave birth to two children. She was discharged from the hospital. The petitioner was under impression that the post is still vacant.

(ii) Further the petitioner contended that the petitioner's signature was forged as if the petitioner has given a letter for voluntary retirement. Subsequently, the school has appointed another person in the said post. The petitioner prepared a written representation on 03.11.2015 to the third respondent and the third respondent vide communication, dated 06.11.2015 directed the petitioner to appear before the authorities on 16.11.2015 with relevant document. The petitioner appeared before the third respondent and submitted the facts and produced the document. Subsequently, the third respondent sent a communication to the fourth respondent school directing the fourth respondent to submitted a reply within seven days for the complaint preferred by the petitioner. The third respondent also sent a communication dated 02.12.2015 directing the petitioner to appear before him on 07.12.2015. Based on the third respondent communication the



petitioner appeared on 07.12.2015, 08.12.2015 and 23.12.2015 and also submitted a written statement on 08.12.2015 specifically alleging that the signature in the disputed letter is forged. The petitioner preferred a writ petition in WP(MD) No.201 of 2015 before this Court and this Court vide order, dated 06.01.2016 directed the authorities to pass orders within the stipulated time. The third respondent without following the mandatory provisions under Section 17-A of Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974, passed the impugned rejection order dated 02.02.2016. The contention of the petitioner is that the third respondent should have sent resignation letter to the second respondent and the second respondent in turn ought to have confirmed the fact of resignation from the petitioner and thereafter, ought to have granted approval. The official respondents have not followed such procedure, which is contemplated under Rule 17-A of Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974. Therefore, the petitioner has preferred the writ petition to quash the impugned order with consequential prayer.

3. The fourth respondent has filed a counter stating that the petitioner has submitted the resignation letter with a request to the fourth respondent through fifth respondent on 18.07.2014 and informed her intention of voluntary resignation from 15.10.2014. There was three months opportunity from 18.07.2014 to revise her decision of resignation and this three month period could have been used by the petitioner to revise her decision to resign, but the petitioner has failed to do so. The writ petitioner has not denied his signature in the above said letter. However, the petitioner stated that the said letter was obtained under coercive pressure. The fourth respondent has specifically denied that there is no necessity to obtain the resignation by force and there is no completion at all. The fourth respondent further submitted that since the school is a minority school, prior approval from the official respondent for accepting the resignation is not necessary. After resigning the post, the copy of the resignation letter and the order of management were forwarded to the third respondent on 17.12.2014. Therefore, the claim of prior approval does not arise. The fourth respondent has further stated that the claim of the writ petitioner cannot be considered for four reasons:-

(i) the writ petitioner did not dispute the signature found in the letter dated 18.07.2014 and 15.10.2014.

(ii) the writ petitioner did not challenge the order of the second respondent accepting the resignation dated 26.06.2015.

(iii) The writ petitioner did not come to the school from 15.10.2014 i.e., from the date of resignation. The certificate belonging to the writ petitioner were also duly handed over after getting her

signature in the school delivery note.



(iv) The writ petitioner had put her signature in the service book for accepting resignation on 15.10.2014. The third respondent had also counter signed the fact of resignation.

Therefore, all the procedures have been followed. Hence, the fourth respondent prays to dismiss the writ petition.

4. The official respondent namely, the District Educational Officer has filed a counter stating that the two letters dated 18.07.2014 and 15.10.2014 are written in her own handwriting and therefore, the petitioner cannot dispute at this stage. The school management has submitted the proposal to the third respondent and sought for approval. Thereafter, the third respondent after following the due process of law and having ascertained the fact that she had given her willingness was voluntary and without coercion. The third respondent after ascertaining the petitioner's willingness, passed the final approval order. In the said post, the management has already appointed one Mrs. Hemavathi in the vacant place on 16.10.2014 and the petitioner was relieved from service and the resignation has entered in the service book of the petitioner. After a lapse of so many years, the petitioner submitted a representation, dated 03.11.2015 thereby leveled some bald allegations as against the fourth respondent school management. Further, during the course of enquiry, the petitioner failed to satisfy the third respondent in respect of the fact of her own handwriting/signature as well as other formalities which were followed at her own request time and the petitioner had not given sufficient reasons for approaching authorities with inordinate delay. The writ petition is filed after a lapse of 1 ½ years. Therefore, the official respondent prayed to dismiss the writ petition.

5. Heard Mr.M.Subash Babu, the learned counsel appearing for the petitioner, Mr.V.Omprakash, the learned Government Advocate (Civil Side) appearing for the respondents 1 to 3 and Mr.T.Antony Arul Raj appearing for the respondents 4 and 5 and perused the records.

6. The contention of the petitioner is that the disputed letter of resignation for voluntary retirement was obtained by force. As per Rule 17(A) Sub-Clause 3 of Tamil Nadu Recognized Private Schools (Regulation) Rules, no educational agency shall insist or compel any teacher or other person employed in a private school to give at any undated or predated resignation letter. As per Sub-Clause 4 of Rule 17(A) of Tamil Nadu Recognized Private Schools (Regulation) Rules, no teacher or other person employed in a private school shall be relieved from service on the strength of the resignation letter. The resignation letter shall, on receipt, be sent to the Chief Educational Officer concerned in respect of



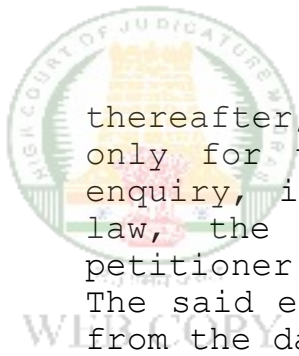
Teacher and other persons employed in High Schools, Higher Secondary Schools and Teachers' training institution and to the District Educational Officer concerned in respect of Teacher and other person employed in a pre-primary, Primary and Middle Schools.

7. The contention of the petitioner is that the petitioner was employed as BT Assistant in the fourth respondent School. Since it is a Higher Secondary School, Chief Educational Officer ought to enquire into the matter and pass order. In the present case, the District Educational Officer has passed the order, who is not having the power to enquire and pass orders. This plea was refuted by the fourth respondent and submitted that even though the school is a Higher Secondary School, the petitioner was working as a BT Assistant for the Middle School section. Therefore, the District Educational Officer is the competent authority to pass an order.

8. The next contention put forth by the petitioner is that the petitioner was forced to give the resignation letter and on subsequent letter, the signature was not affixed by the petitioner and the petitioner's signature was forged. In this regard, the official respondent ought to have conducted an enquiry. On perusing the records, the official respondents have not clarified whether any enquiry was conducted. According to the petitioner, the official respondents had issued notice to conduct the enquiry and the petitioner appeared before the authority for more than four times and in one occasion, the petitioner submitted a written representation and the official respondents have not conducted any enquiry at all. Especially, the official respondents have not scrutinized or enquired this specific allegation that the petitioner's signature was forged. On perusing the impugned order, it is seen that there is no mention in the impugned order whether any enquiry was conducted after giving proper opportunity and whether the specific allegation of forging of signature was gone into or not.

9. In view of the above, this Court is of the considered opinion that re-enquiry is necessary in this regard. At this juncture, the learned counsel for the fourth respondent submitted that already another person namely, Tmt. Hemavathi was appointed in the said post and the said Hemavathi is continuing in service for the past five years and as such, the said person cannot be disturbed. If that is so, the petitioner would be entitled to compensation. In order to ascertain the compensation as well as in order to ascertain whether the signature was forged, the authorities ought to conduct a fresh enquiry.

10. Taking into consideration of all the facts stated supra, the impugned order in Na.Ka.No.6358/A1/2015 dated 02.02.2016 passed by the third respondent is set aside and the matter is remitted back to the respondents to conduct a fresh enquiry, after giving an opportunity to both the petitioner as well as the school and



thereafter, to pass appropriate orders. This case is remitted back only for the sake of conducting re-enquiry alone. If during the enquiry, it is found that the resignation is not in accordance to law, the official respondents shall consider the case of the petitioner for reinstatement and other monetary benefits as well. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

11. With the above observation, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

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/ /2022

Sub Assistant Registrar (CS)

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To

1. The Director,

Director of School Education,
Chennai.

2. The Chief Educational Officer,

Chief Educational Office,
Dindigul, Dindigul District.

3. The District Educational Officer,

District Educational Office,
Dindigul, Dindigul District.

4. The Correspondent,

St. Josephs Girls Higher Secondary school,
Dindigul-624 001,
Dindigul District.

+1 CC to M/s. M. SUBASH BABU, Advocate (SR-24275[F] dated 02/06/2022)

+1 CC to M/s. SPL.GP (SR-24286[F] dated 03/06/2022)

**order made in
W.P. (MD) No.3917 of 2016
and
W.M.P (MD) Nos.3507 and
6442 of 2016
Dated: 02.06.2022**

PKP/09.06.2022/6P/7C