



W.P(MD)No.25652 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25652 of 2022

and

W.M.P.(MD)Nos.19743 & 19745 of 2022

R.Ramasubramanian

... Petitioner

Vs.

1.The Chief Educational Officer,
Tenkasi District, Tenkasi.

2.The District Educational Officer,
Tenkasi Educational District, Tenkasi.

3.The Correspondent,
S.S.V.Higher Secondary School,
Mathapattanam, Koviloothu Post,
Tenkasi District-627 415.

... Respondents

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 impugned order of Suspension dated 19.08.2022 issued by the 3rd Respondent and quash the same and consequently, directing the Respondents to reinstate the petitioner as B.T. Assistant (Maths) in 3rd respondents school with all service and monetary benefits forthwith.



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For Petitioner : Mr.K.Govindarajan
for Mr.J.Parekhkumar
For R1 & R2 : Mr.S.Shaji Bino
Special Government Pleader
For R3 : Mr.M.Ajmalkhan
Senior Counsel
for M/s.Ajmal Associates

ORDER

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for R1 & R2 and the learned Senior Counsel appearing for the third respondent.

2. The petitioner is employed as Maths teacher. He has been suspended vide order dated 19.08.2022. The order of suspension is under challenge. The petitioner had also challenged the charge memo issued by the employer. Writ Petition (MD)No.25645 of 2022 has already been dismissed by me. The charge against the petitioner is fairly grave. In such cases, the employer can very well suspend the employee. The power of the management to suspend the petitioner is beyond dispute. Section 22 of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 is as follows:-

22.Dismissal, removal or reduction in rank or suspension of teachers or other persons employed in private schools. (1) Subject to any rule that may be made in this behalf, no teacher or other person employed in any private



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school shall be dismissed, removed or reduced in rank nor shall his appointment be otherwise terminated except with the prior approval of the competent authority.

(2) Where the proposal to dismiss, removal or reduce in rank or otherwise terminate the appointment of any teacher or other person employed in any private school is communicated to the competent authority, that authority shall, if it is satisfied that there are adequate and reasonable grounds for such proposal, approve such dismissal, removal, reduction in rank or termination of appointment.

(3) (a) No teacher or other person employed in any private school shall be placed under suspension, except when an inquiry into the gross misconduct, within the meaning of the Code of Conduct prescribed under sub-section (1) of Section 21, of such teachers or other person is contemplated.

(b) No such suspension shall remain in force for more than a period of two months from the date of suspension and if such inquiry is not completed within that period, such teacher or other person shall without prejudice to the inquiry, be deemed to have been restored as teacher or other employee.

Provided that the competent authority may, for reasons to be recorded in writing extend the said period of two months, for a further period not exceeding two months, if in the opinion of such competent authority, the inquiry could not be completed within the said period of two months for reasons directly attributable to such teacher or other person.

3. Challenge to the impugned suspension is rejected. However, there is substance in the petitioner's counsel's contention that in the absence of the formal permission from the department, suspension cannot continue beyond two months. In this case, two months period had already expired.



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4. The learned Senior Counsel appearing for the third respondent would point out that the management has already sent a proposal to the department seeking extension of the two months period. However, the department is yet to pass order on the employer's proposal.

5. If the department has not given formal extension, even the initial period of suspension cannot continue beyond two months. As per statute, the petitioner is deemed to have been reinstated. However, it is open to the employer to permit the petitioner to report for duty or deny such permission. In the event of not permitting the petitioner to report for duty, the employer will have to pay salary and this liability cannot be passed on to the Department.

6. The petitioner's counsel complained that the petitioner has not been paid subsistence allowance for the two months period.

7. The Management is directed to pay subsistence allowance to the petitioner. If the petitioner is found guilty, the department is duty bound to reimburse the same. The right of the management to secure reimbursement of the subsistence allowance will depend upon the outcome of the disciplinary action.



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8. The first respondent is directed to pass order on the management's proposal within a period of seven days from the date of receipt of a copy of this order. If the department accepts the management's proposal for extension of suspension period, the petitioner's earlier suspension will stand revived and the order passed by this Court declaring the petitioner's reinstatement shall abide by the decision of the department. In any event, the petitioner's suspension cannot be lost beyond the period of four months.

9. The Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

28.11.2022

Index : Yes / No
Internet : Yes/ No
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-To

1.The Chief Educational Officer,
Tenkasi District, Tenkasi.

2.The District Educational Officer,
Tenkasi Educational District, Tenkasi.



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G.R.SWAMINATHAN, J.

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