



W.P.(MD).Nos.119 and 120 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.12.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).Nos.119 and 120 of 2017
and
W.M.P.(MD).Nos.92, 93 and 94 of 2017**

W.P.(MD).No.119 of 2017:

P.Simon Prabhu

... Petitioner

Vs.

- 1.The District Elementary Educational Officer,
S.N.High Road,
Tirunelveli – 1.
- 2.The Additional Elementary Educational Officer,
Radhapuram, Radhapuram Taluk,
Tirunelveli District.
- 3.The Correspondent / Secretary,
Mr.Subramania Mudhaliar Memorial Middle School,
Kottaikarunkulam, Radhapuram Taluk,
Tirunelveli District.
- 4.R.Dhanapaul,
B.T.Assistant (Headmaster in Charge),
Mr.Subramania Mudhaliar Memorial Middle School,
Kottaikarunkulam, Radhapuram Taluk,
Tirunelveli District.

... Respondents



W.P.(MD).Nos.119 and 120 of 2017

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned suspension order passed by the third respondent dated 17.08.2016 and quash the same.

For Petitioner : Mr.R.Bala Krishnan

For R-1 and R-2 : Mr.S.Kameswaran,
Government Advocate.

For R-3 and R-4 : Mr.S.Palanivelayutham

W.P.(MD).No.120 of 2017:

P.Simon Prabhu

Vs.

... Petitioner

- 1.The District Elementary Educational Officer,
S.N.High Road,
Tirunelveli – 1.
- 2.The Additional Elementary Educational Officer,
Radhapuram, Radhapuram Taluk,
Tirunelveli District.
- 3.The Correspondent / Secretary,
Mr.Subramania Mudhaliar Memorial Middle School,
Kottaikarunkulam, Radhapuram Taluk,
Tirunelveli District.



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4.V.S.Muthupandian,
School Committee Member/Enquiry Officer,
Mr.Subramania Mudhaliar Memorial Middle School,
Kottaikarunkulam, Radhapuram Taluk,
Tirunelveli District.

5.R.Dhanapaul,
B.T.Assistant (Headmaster in Charge),
Mr.Subramania Mudhaliar Memorial Middle School,
Kottaikarunkulam, Radhapuram Taluk,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned notice issued by the third respondent dated 26.11.2016 and quash the same.

For Petitioner : Mr.R.Bala Krishnan

For R-1 and R-2 : Mr.S.Kameswaran,
Government Advocate.

For R-3 and R-5 : Mr.S.Palanivelayutham

For R-4 : Mr.J.Ranjani Devi



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COMMON ORDER

The Writ Petition in W.P.(MD).No.119 of 2017 is filed challenging the order dated 17.08.2016 and the Writ Petition in W.P.(MD).No.120 of 2017 is filed challenging the enquiry notice dated 26.11.2016.

2. The brief facts as stated in the affidavits are that the petitioner was appointed as B.T. Assistant on 28.04.2004 in the third respondent School. Subsequently, two charge memos dated 27.04.2015 and 05.06.2015 were issued and the petitioner was kept under suspension vide order dated 17.08.2016 and the same is challenged in W.P.(MD).No.119 of 2017. The petitioner has challenged the enquiry notice dated 26.11.2016 in W.P.(MD).No.120 of 2017. As far as the enquiry notice dated 26.11.2016 is concerned there is no stay.

3. The petitioner was suspended from service on 17.08.2016, thereafter an enquiry was conducted for the charge memos dated 27.04.2015 and 05.06.2015 and the petitioner had attended the enquiry proceedings and the enquiry report dated 29.06.2016 was submitted by the enquiry officer, who is the fourth respondent herein i.e. Mr.V.S.Muthupandian. Totally, there were 9



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charges against the petitioner and in the enquiry report, it has been stated that 3 charges are proved and the rest of 6 charges are not proved. In the meanwhile, a criminal proceeding was initiated against the petitioner and the same was closed as mistake of fact vide final report dated 11.04.2007. The management submitted a proposal to impose punishment to the Educational Authorities and the same was kept pending. Pending further proceedings, again the petitioner was kept under suspension vide order dated 20.10.2016 and the impugned charge memo dated 26.11.2016 was issued for the allegations that the petitioner had not handed over the keys, hence the school management had to break open the locks in order to take the school records. Hence in order to conduct an enquiry the impugned enquiry notice dated 26.11.2016 was issued. Pending adjudication of these two writ petitions, the suspension was revoked and the petitioner was allowed to rejoin on 23.11.2020 and receiving salary thereafter.

4. Thereafter, there is no further litigation between the petitioner and the school, hence this Court directed the parties to amicably settle among themselves. But settlement was not forthcoming, hence this Court proceeded to hear the case on merits.



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5. As far as the two charge memos dated 27.04.2015 and 05.06.2015 is concerned, the enquiry officer has held the 3 charges were proved and 6 charges are not proved. The first charge stated as proved is that, without doing his work as teacher, the petitioner has entertained the third parties and he was taking to them and thereby, he had failed to take classes to the students and that was held to be proved. The second charge is that the petitioner has not taking classes as per the time table. The third charge is that the petitioner was assigned to attend the meeting which was not reported to the Management. All these three charges were held to be proved.

6. When the Writ Petition was pending for adjudication, again the petitioner was kept under suspension on 20.10.2016, but reinstated on 23.10.2020. Hence, the only question is whether the petitioner is entitled to salary and who had to pay the same.

7. After hearing the rival submissions this Court has given its anxious consideration to the issues raised by the parties.



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8. Since the serious charges were held not proved, the School ought to pay the salary. But, it is seen that the Management submitted a proposal to impose punishment to the Educational Authorities and the same was kept pending by the authorities. Hence, the Educational Authorities ought to pay the salary. Moreover, in order to put an end to the litigations among the parties, this Court is inclined to pass the following order:

- a. The charge memo dated 26.11.2016 is quashed.
- b. As far as two charge memos dated 27.04.2015 and 05.06.2015, three charges were held to be proved and this Court is imposing a punishment of stoppage of increment for six months without cumulative effect.
- c. The suspension period shall be regularized as duty period.
- d. The official respondents shall pay the salary and other benefits like annual increments, monetary benefits and service benefits.
- e. The above directions shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.



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9. With the above direction, the Writ Petitions in W.P.(MD).No.119 of 2017 and W.P.(MD).No.120 of 2017 are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.12.2022

Index : Yes / No
Internet : Yes/ No
Nsr

To

1.The District Elementary Educational Officer,
S.N.High Road,
Tirunelveli – 1.

2.The Additional Elementary Educational Officer,
Radhapuram, Radhapuram Taluk,
Tirunelveli District.



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S.SRIMATHY, J.

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