



W.P.(MD)No.27248 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 07.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.27248 of 2019

and

W.M.P(MD).Nos.23534 and 23536 of 2019

A.Irudaya Mary

... Petitioner

Vs

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

2.The Chief Educational Officer,
Perunthitta Valagam, Theni.

3.The District Education Officer,
Theni.

4.The Correspondent,
Presentation Convent,
Girls Higher Secondary School,
Theni, Theni District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned termination order dated 10.10.2019 passed by the fourth respondent and quash the same and consequently directing the fourth respondent to reinstate the petitioner in service with all consequential service benefits.



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For Petitioners : Mr.Rajkumar
for Mr.S.A.Ajmalkhan
For Respondents : Mr.S.Shaji Bino (for R1 to R3)
Special Government Pleader
Mr.K.Hemakarthiskeyan (for R4)

ORDER

Heard the learned counsel on either side.

2.The writ petitioner joined the fourth respondent School as Secondary Grade Teacher. It is an aided Minority School. Some incidents had taken place on 09.04.2018 in the School campus and that led to the issuance of charge memo dated 16.04.2018. The charge memo reads that on 09.04.2018 at around 5.30 pm., the petitioner had addressed her colleagues in an abusive manner. On 10.04.2018 at around 2.00 pm., the petitioner's husband namely Arockiyasamy along with a stranger entered the School campus and had spoken in an improper fashion at the School Headmistress, who is also an ordained member of the congregation. For these acts of misconduct, charge memo dated 16.04.2018 came to be issued. Since the petitioner declined to receive the said charge memo, one more charge memo dated 18.04.2018 also



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came to be issued. The petitioner submitted her explanation on 21.04.2018 expressing her sincere regret. She reiterated that she as well as her husband have immense reverence for the ordained Sister of the congregation and also the School Management and prayed for dropping further proceedings. Without accepting the petitioner's explanation, enquiry was ordered to be held.

3.In the meanwhile, one more complaint was received against the writ petitioner on 05.07.2019. As many as six of the petitioner's colleagues gave a written complaint to the School Correspondent that on 05.07.2019 the writ petitioner made a statement that since the School Management acted against the interest of the girls student, there will be an enquiry by the Child Line Authorities. When her colleagues questioned the writ petitioner as to why she lodged a complaint to the Child Line, the petitioner is said to have maintained silence. The petitioner then thereupon went out and spoke to someone on her mobile phone and returned. The School Headmistress pulled up the writ petitioner for using mobile phone during School hours. When it was questioned, the petitioner broke down and swooned. The petitioner's purse was open and some chits fell therefrom. In the said chits, some



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unparliamentary lines had been written against the petitioner's colleagues. At that time, a Police Constable entered the School campus. After the petitioner regained consciousness, the Headmistress had asked the petitioner to go home, but the petitioner continued to remain in the School campus. This incident led to the issuance of the third charge memo dated 10.07.2019.

4.Enquiries were conducted in respect of all the three charge memos. While charge memos 1 and 2 were clubbed, the third charge memo was independently enquired into. Before the Enquiry Officer, the petitioner did not contest the charges. The Enquiry Officer gave report, dated 06.09.2019 holding that the charges stood proved. The Management issued second show cause notice dated 18.09.2019 enclosing the enquiry report and called upon the petitioner to show cause. The petitioner offered her explanation dated 24.09.2019. Not satisfied with the same, the impugned dismissal order dated 10.10.2019 came to be passed. Challenging the same, the present writ petition has been filed.



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5.The learned counsel appearing for the petitioner took me through the contents of the affidavit filed in support of the writ petition. He contended that the principles of natural justice has been grossly violated. The charge memos were not in the prescribed format. There was no imputation of misconduct. The documents, based on which, the charge memos had been issued were not supplied to the writ petitioner. He also pointed out that without even examining the witnesses in chief, the petitioner was called upon to cross-examine them. The petitioner wanted to give a quietus to the whole issue and that is why, she had with folded hands expressed her regret and such a stand of the writ petitioner was construed as pleading guilty. He submitted that failure to examine the witnesses in support of the charges, goes to the root of the matter.

6.The learned counsel relied on the decision reported in **2015 (2) CWC 317 (Bilaspur Raipur Kshetriya Gramin Bank and another Vs., Madanlal Tandon)**. He also pointed out that the punishment imposed on the petitioner is grossly disproportionate.



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7.Per contra, the learned counsel appearing for the fourth respondent submitted that the allegations made against the writ petitioner are fairly serious. By lodging a complaint before the Child Line, the petitioner has brought disrepute to the Management. The manner in which the petitioner had conducted with her colleagues is also condemnable. He pointed out that neither the School Management nor the colleagues were ill-disposed towards the petitioner. In any event, if there was any misunderstanding, it should have been resolved in an appropriate manner and bringing her husband and a third party into the School Campus to confront an ordained member of the congregation was an unacceptable behavior. He would also submit that when the writ petitioner had pleaded guilty to the charges framed against her, the question of holding enquiry does not arise. According to him, the punishment imposed on the petitioner is commensurate with the gravity of misconduct committed by the petitioner. He prayed for dismissal of the writ petition.

8.I carefully considered the rival contentions and went through the materials on record. I must sustain the stand of the learned counsel appearing for the fourth respondent that there is no question of violation



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of the principles of natural justice. The petitioner was served with as many as three charge memos. The petitioner had given her explanation in response to them. The petitioner had nowhere contested the charges. I went through the contents of the minutes of the enquiry. It had been mentioned therein that the petitioner accepted the charges framed against her. The petitioner had also signed the said minutes. The stand taken by the writ petitioner during enquiry, as well as the contents of her explanation given in response to the charge memos go together. When the petitioner herself did not contest the charges, the question of leading evidence does not arise at all. I therefore come to the conclusion that the finding of guilt arrived at by the disciplinary authority does not call for any interference.

9.Now, I directly come to the question as to whether the punishment of dismissal imposed on the petitioner is proper. Even before commencing his submission, the learned counsel appearing for the writ petitioner, on instructions, categorically stated that even if the punishment is set aside, the petitioner will forego her claim of backwages. The petitioner is a woman. She had joined the fourth respondent School in April 2001. Till April 2018, there was no issue



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between the petitioner and the School Management. Something had happened in the first week of 2018 and that had triggered the subject occurrences. The petitioner's husband is an Ex-Army man. He was working as Naik in the Indian Army. Probably, the petitioner had complained to her husband that she was being ill-treated in the School. The behavior of the petitioner's husband is a typical Army-man's reaction. But, an ordained member of the congregation ought to be treated with utmost reverence and I cannot condone the conduct of the petitioner's husband.

10. Be that as it may, when charge memos were issued, the petitioner had expressed her utmost regret and she did not attempt to justify her behavior. She had reiterated that she as well as her husband have the highest reverence for the Sister/Headmistress of the Institution. The second occurrence that took place on 05.07.2019 also indicates that the petitioner was under considerable inner stress. Admittedly, she had swooned and she was brought back to consciousness by sprinkling water on her. The chits, which contained some inappropriate expressions, were inside her purse. The petitioner did not circulate the same. It is not clear under what circumstances the Police Constable visited the School



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campus. After going through the entire materials on record, I conclude that the outburst on the part of the writ petitioner was more due to some inner stress. Such a person has to be counselled. The writ petitioner is a Christian. The Institution is the Minority Institution. The following biblical sayings are relevant:

“Forget the former things;
do not dwell on the past.”

Isaiah 43:18

“Get rid of all bitterness, rage and anger,
brawling and slander, along with every
form of malice.”

“Be kind and compassionate to one another,
forgiving each other, just as in Christ God
forgave you.”

Ephesians 4:31-32
(Words of St.Paul)

“If your enemy is hungry, feed him;
if he is thirsty, give him something to
drink.

In doing this, you will heap burning coals
on his head.

“Be not overcome of evil, but overcome
evil with good.”

Roman 12:19-20

In Thirukural also, the following couplets are found:

“இன்னா செய்தாரை ஒருத்தல் அவர் நாண
நன்னயம் செய்து விடல்.”



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11.The petitioner's conduct in my view is not so grave as to warrant the capital punishment of dismissal. The petitioner in her explanation in response to the second show cause notice has stated that her husband retired from Army and he is drawing only a paltry amount as pension and that her entire family is depending only on her salary. Therefore, dismissal of the writ petitioner would entail very serious consequence for the family. Since the petitioner herself has foregone three years' back wages, that itself is sufficient punishment for her. When the writ petitioner is conscious that her entire family is depending on her salary drawn from the institution, she ought to behave with greater responsibility. The petitioner as well as her husband will submit one more letter of unconditional apology to the fourth respondent and undertake to conduct themselves appropriately in future.

12.In this view of the matter, the order impugned in the present writ petition is set aside. The fourth respondent is directed to reinstate the petitioner in service. There will be continuity of service. But back wages are denied.



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13.The Writ Petition is **allowed** on these terms. No costs.

Consequently, connected Miscellaneous petitions are closed.

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Index : Yes/No

Internet : Yes/No

Rmk

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G.R.SWAMINATHAN, J.,

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