



WEB COPY

W.P.No.10783 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2023

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.10783 of 2012

M.Gokila

... Petitioner

Vs.

1. The Additional Assistant Elementary,
Educational Officer,
Krishnagiri.

2. The District Elementary Educational Officer,
Office of the District Elementary Education,
Krishnagiri.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the second respondent's letter dated 30.03.2012 made in Na.Ka.No.4677/A5/2011, quash the same and direct the second respondent to reinstate the petitioner into service with all attendant benefits.

For Petitioner : M/s. K.Rajasekaran

For Respondents : Mr.K.Surendran,
Additional Government Pleader



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ORDER

The petitioner herein was appointed as Secondary Grade Teacher at Panchayat Union Primary School, Periyamottur, Krishnagiri Union and she joined the said post on 19.01.2000. Thereafter, the services of the petitioner were regularized on 24.01.2001, on completion of her probation period. While she was working as such, disciplinary proceedings were initiated against the petitioner basing upon a complaint received against her by issuing proceedings dated 19.01.2012 under Rule 17(2) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules (hereinafter referred to as 'the Rules' for short), while placing the petitioner under suspension under Sub Rule (e) of Rule 17 of the Rules. Thereafter, charge sheet was issued under Section 17(e) of the Rules, alleging that the petitioner secured the appointment of Secondary Grade Teacher by producing a bogus certificate and a charge memo dated 20.02.2012 was issued to the petitioner. Thereafter, an enquiry was sought to be conducted against the petitioner and accordingly, a notice in Na.Ka.No.4677/A5/2011 dated 27.03.2012 was issued, proposing to conduct oral enquiry on 30.03.2012 at 11:30 a.m.



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2. According to the learned counsel for the petitioner, the petitioner approached the Enquiry Officer and requested to postpone the enquiry for a period of 30 days. However, without affording any further opportunity and without issuing any notice to the petitioner, the impugned order came to be passed on 30.03.2012 itself, removing the petitioner from service. It is the specific contention of the learned counsel for the petitioner that no opportunity of participating in the enquiry was provided nor any notice was issued to the petitioner before issuing the impugned proceedings on the quantum of punishment.

3. The second respondent filed a counter affidavit and from paragraph 6 of the counter affidavit, it is noticed that the petitioner having received notice of enquiry dated 27.03.2012, requested for postponement of the enquiry. It is also stated that considering the request of the petitioner, the petitioner was given another chance for oral enquiry, but she failed to appear for oral enquiry on 30.03.2012 and therefore, the impugned order was passed. The original enquiry was itself scheduled on 30.03.2012 as intimated to the



petitioner through notice dated 27.03.2012 and admittedly, the petitioner made a request for postponement of enquiry and the respondents also stated to have afforded another opportunity to the petitioner.

4. This Court having taken note of the said contentions of the respondents in paragraph 6 of the counter affidavit, directed the learned counsel for the respondent to ascertain as to whether any further opportunity was provided to the petitioner after 30.03.2012.

5. Today, when the matter is taken up for consideration, it is brought to the notice of this Court that except on 30.03.2012, there is no further opportunity was provided and impugned order was passed on the same day.

6. In the light of the admitted fact situation, there is no dispute that the impugned order was passed without conducting any enquiry and without affording reasonable opportunity to the petitioner. Therefore, the impugned order is liable to be set aside on this ground alone and the same is accordingly set aside. The matter is remanded back to the second respondent for conducting enquiry afresh and to pass appropriate orders in accordance with law.



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7. As the removal of the petitioner from service is without following due process of law, it is made clear that in case if the petitioner is successful in the disciplinary proceedings to be conducted pursuant to this order, the petitioner shall also be entitled for all the backwages and continuity of service and all other consequential benefits.

8. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous Petitions, if any, shall stand closed.

19.12.2023

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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MUMMINENI SUDHEER KUMAR, J.

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