



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.965 of 2022
and WMP No.1029 of 2022

M.Sivakumar

Petitioner

.Vs.

- 1.The Director of School Education
D.P.I., Building
College Road
Chennai 600 009.
- 2.The Chief Educational Officer
Dharmapuri
Dharmapuri District.
- 3.The District Educational Officer
Palacode, Dharmapuri
Dharmapuri District.
- 4.The Block Educational Officer
Palacode, Dharmapuri
Dharmapuri District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records in relating to the impugned order in Na.Ka.No.3228/௮ 7/2018, dated 19.02.2021, passed by the

3rd respondent.



For Petitioner : Mr.D.Charles Muthu Santhan

For Respondents : Mr.D.Ravichander
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceedings of the 3rd respondent in Na.Ka.No.3228/A7/2018, dated 19.02.2021, wherein the petitioner has been imposed with a punishment of two years increment cut with cumulative effect.

2.The case of the petitioner is that he was appointed as a Secondary Grade Assistant Teacher in the year 2004. In the year 2013, he was transferred and posted in the Panchayat Union Middle School. While working in this School, a complaint came to be given against the petitioner before the District Elementary Educational Officer, Dharmapuri, who has now been designated as District Educational Officer viz., the 3rd respondent in this writ petition.

3.Based on the above complaint, the petitioner was placed under suspension by an order dated 02.04.2018. Subsequently, a charge memo came to be issued through proceedings dated 18.01.2018 and three charges were



framed against the petitioner. The charge memo was issued under Rule 17(a) of the Tamil Nadu Civil Services [Discipline and Appeal] Rules (hereinafter referred as "the Rules").

4.The petitioner gave his explanation and apart from defending himself on the charges framed against him, also took a stand that the father-in-law of the petitioner misused his office and gave a false complaint with a malafide intention.

5.An enquiry officer was appointed and the petitioner gave his explanation. To the shock and surprise of the petitioner, the impugned proceedings dt.19.02.2021, came to be issued by imposing a major penalty of two years increment cut with cumulative effect under Rule 17(b) of the Rules. Aggrieved by the same, the present writ petition has been filed before this Court.

6.The 3rd respondent has filed a counter affidavit and has justified the imposition of the major penalty against the petitioner.

7.Heard Mr.D.Charles Muthu Santhan, learned counsel for the petitioner



and Mr.D.Ravichander, learned Special Government Pleader appearing on behalf of the respondents.

8.The short issue that arises for consideration in this writ petition is as to whether the 3rd respondent was right in imposing a major penalty against the petitioner without following the procedure contemplated under Rule 17(b), even though the initial charge memo was issued only under Rule 17(a) of the Rules.

9.There is no dispute with regard to the fact that after the charge memo was issued against the petitioner, the petitioner gave his explanation. This procedure was adopted on the premise that the petitioner is proceeded against under Rule 17(a) for a minor penalty. If ultimately, a minor penalty had been imposed, this procedure adopted by the 3rd respondent will suffice and in such an event, this Court could have confined its focus on the reasonings given for sustaining the minor punishment.

10.In this case, the 3rd respondent proceeded to impose a major penalty against the petitioner under Rule 17(b). This Rule deals with major penalties and the procedure to be adopted before imposing a major penalty. The 2nd proviso to Rule 17(a) of the Rules makes it clear that where it is proposed to



impose punishment of withholding increment of pay with cumulative effect for any period, the procedure laid down in 17(b) should be followed before imposing the major penalty. This mandate imposed by the second Proviso to Rule 17(a) has not been followed in the present case.

11.If the 3rd respondent was satisfied that a major penalty must be imposed against the petitioner, an oral enquiry should have been held and witnesses, if any, should have been examined by giving an opportunity to the petitioner to cross examine those witnesses. If there is an adverse report given by the enquiry officer, a copy of the same should be given to the petitioner to enable the petitioner to give his explanation. Thereafter, if the 3rd respondent wanted to impose major penalty, the petitioner should have been given an opportunity to give his explanation for the proposed punishment. Admittedly, none of these procedures were followed in the present case and on this ground alone, the impugned order passed by the 3rd respondent is liable to be interfered by this Court.

12. In the light of the above discussion, the impugned order of the 3rd respondent in Na.Ka.No.3228/A7/2018, dated 19.02.2021, is hereby quashed.



The matter is remanded back to the file of the 3rd respondent and if the 3rd respondent proposes to continue with the disciplinary proceedings against the petitioner, the procedure contemplated under Rule 17(b) of the Rules shall be strictly adhere to. In any event, final orders shall be passed within a period of **three months** from the date of receipt of a copy of this order.

13.In the result, this writ petition is allowed with the above directions.

No Costs. Consequently, connected miscellaneous petition is closed.

24.01.2023

Index : Yes
Internet : Yes
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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N. ANAND VENKATESH, J.

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