



W.P.No.13932 of 2011

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 03.02.2023**

**CORAM**

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

**W.P.No.13932 of 2011**

**And**

**M.P.Nos.1 of 2011 and 1 of 2012**

P.Chakravarthy

... Petitioner

Vs.

1.The Commissioner,  
Corporation of Chennai,  
Chennai – 600 003.

2.The Headmaster,  
Chennai Primary School,  
Chinnababu Street,  
Nammalwarpet,  
Chennai – 600 012.

... 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 order of the first respondent in Ka.Thu.Na.Ka.No.M2/2701/2011 dated 25.04.2011 and quash the same and direct the first respondent to reinstate the petitioner in service with all attendant benefits.



W.P.No.13932 of 2011

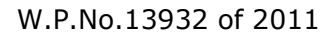
For Petitioner : Mr.P.Rajendran  
For Respondents : Mrs.P.T.Ramadevi for R1  
Standing Counsel  
Mr.S.Arumugam for R2  
Government Advocate

### **ORDER**

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in Ka.Thu.Na.Ka.No.M2/2701/2011 dated 25.04.2011 and to quash the same and to direct the first respondent to reinstate the petitioner in service with all attendant benefits.

2.The case of the petitioner is that when the petitioner was working as Noon Meal Organiser in the second respondent School, the first respondent issued the impugned order removing the petitioner from service on the ground that FIR was registered as against the petitioner in G5 Police Station, Secretariat Colony, Kilpauk, Chennai and the petitioner had been kept in prison for more than 48 hours. Challenging the same, the petitioner has filed this writ petition.

3.The learned counsel for the petitioner submitted that without issuing any charge memo and without conducting any enquiry and



4. The learned Standing Counsel appearing for the first respondent submitted that the petitioner was arrested on the basis of report given by the Sub Inspector of Police that the petitioner had 6 bags weighing 50 Kg. per bag from the noon meal section of school for selling it in the black market. Further the petitioner was appointed as a Noon Meal Organizer on a consolidated pay of Rs.150/- purely on temporary basis and there is no Service Rules for the post of Noon Meal Organizer and hence Department enquiry could not be conducted.

3/8



W.P.No.13932 of 2011

employee and hence he need not undergo Departmental proceedings.

Since the petitioner was caught red handed by the Police and was arrested in connection with a case in Crime No.233 of 2011 for the offence under Section 6(4) of TNSC (RDCS) order 1982, r/w 7(i)a(ii) of EC Act, 1955, and underwent imprisonment for more than 48 hours, he was rightly removed from work.

6.Heard both sides and perused the materials available on record.

7.Perusal of records disclose that without issuing any charge memo and without conducting any enquiry and without even issuing a show cause notice, the impugned order removing the petitioner from service was issued.

8.Further, the decision of this Court relied upon by the learned counsel for the petitioner reported in **2007 (3) CTC 806 (G.Periannan Vs. 1.The Government of Tamil Nadu, rep. by the Secretary to Government, Social Welfare and Nutritious Meal Department and others)** this Court held that if the appointment of



W.P.No.13932 of 2011

the petitioner as Noon Meal Organiser is made by the State authorities, even though the said post of Noon Meal Organiser is not a regular post, but created by the Government Order, the petitioner, before being removed, should have been given a proper opportunity of enquiry by issuance of charge memo and calling for explanation followed by the domestic enquiry.

9.In the decision cited supra, this Court has also observed that the incident has taken place more than 15 years ago and therefore no purpose will be served in permitting the respondents to conduct enquiry since the officials will not be available and the petitioner also will not be in a position to remember the facts and has held as follows:

***"17.Therefore, I am of the view that the interest of justice would be met by setting aside the impugned order with a direction to the respondents to reinstate the petitioner as Noon-meal Organiser with continuity of service and all attendant benefits other than backwages. The respondents are directed to implement this order within six weeks from the date of receipt of a copy of this order."***



W.P.No.13932 of 2011

10. Therefore, the same principles are applied to the present facts and circumstances of the case. Though the petitioner was arrested in connection with a case in Crime No.233 of 2011 for the offence under Section 6(4) of TNSC (RDCS) order 1982, r/w 7(i)a(ii) of EC Act, 1955, and the case is still pending at the concerned Police Station in the stage of FIR, till date, no charge sheet was laid and therefore, I am of the view that the impugned order warrants interference by this Court.

11. Accordingly, the writ petition stands allowed. The impugned order of the first respondent dated 25.04.2011 is quashed. The first respondent is directed to reinstate the petitioner in service with all attendant benefits, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

**03.02.2023**

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Speaking Order/ Non Speaking Order  
Index: Yes/ No  
Internet: Yes/ No



W.P.No.13932 of 2011

To

WEB COPY

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**J.NISHA BANU,J.**  
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