



W.P.No.3702 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.3702 of 2021
and W.M.P.No.4226 of 2021

A.Tamilarasi

...

Petitioner

/vs/

1. The Director of School Education,
Chennai – 600 006.

2. The Chief Educational Officer,
Thiruvannamalai.

3. The District Educational Officer,
Arni, Thiruvannamalai District.

4. The Correspondent,
St. Joseph's Girls Higher Secondary School,
Arni – 632 301.
Thiruvannamalai District.

5. The Headmistress,
St. Joseph's Girls Higher Secondary School,
Arni – 632 301.
Thiruvannamalai District.

...

Respondents



W.P.No.3702 of 2021

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent relating to the order in Pro.Na.Ka.No.3449/E2/2020 dated 08.12.2020 to quash the same and to issue consequential direction to the respondents 2 to 5 to allow the petitioner to continue to serve as Graduate Teacher (History) from 01.06.2019 onwards in the fourth respondent school with consequential benefits of continuity of service, back pay, etc.

For Petitioner ... Mr.P.Murali
For Respondents ... Mr.P.Sanjai Gandhi
Government Advocate for R1 to R3
No appearance for R4 & R5

ORDER

This Writ Petition has been filed to quash the order passed by the second respondent in Pro.Na.Ka.No.3449/E2/2020 dated 08.12.2020 and to issue consequential direction to the respondents 2 to 5 to allow the petitioner to continue to serve as Graduate Teacher (History) from 01.06.2019 onwards in the fourth respondent school with consequential benefits of continuity of service, back pay, etc.

2. The petitioner has been appointed as Junior Graduate Teacher (History) on 08.06.2017 with the St.Joseph, Girls Higher Secondary School, Arani, Tiruvannamali District and her appointment was approved by the third respondent on 12.01.2018.

3. Mr.P.Murali, learned counsel for the petitioner submitted that even



W.P.No.3702 of 2021

prior to the petitioner's above appointment, she was appointed as Junior Graduate Teacher on consolidated pay in the month of June, 2013; on 08.06.2017 the petitioner was appointed and her services were regularized and subsequently her appointment was also approved; all of a sudden on 01.06.2019, the fifth respondent compelled the petitioner to give her resignation letter and got it out of coercion; the petitioner sent a representation dated 07.07.2019 to the second and third respondents by withdrawing her resignation letter and that was also not considered; hence the petitioner had filed W.P.No.30175 of 2019 for seeking direction against the second and third respondent to consider the petitioner's representation dated 07.07.2019 and 30.07.2019 by holding an enquiry; subsequently the second and third respondent passed an order and in which a direction has also been given by an order dated 08.12.2020 by stating that the discretion to appoint the petitioner is lying within the school management which is a minority institution and without the resolution of the administrative committee, the petitioner cannot be given with any relief or permanency as requested by her.

3.1 The learned counsel for the petitioner further submitted that as



W.P.No.3702 of 2021

per Rule 17(A) (3) of the Tamil Nadu Recognized Private Schools (Regular)

Rules, 1974, the educational agencies do not get the compulsory resignation letter from the Teachers at the time of appointment or subsequently; a similarly placed person had already approached this Court and filed a Writ Petition in W.P.(MD).No.21250 of 2015, seeking a direction for reinstatement and his Writ Petition was allowed; thereafter, the School authorities filed appeals in W.A.(MD).No.917 of 2018 and W.A.(MD).No.1322 of 2018 was also allowed on 14.03.2019 by confirming the order of the learned Single Judge with the following observation and by reproducing Rule 17-A:

“8.Rule 17-A of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974 is extracted as under -

"17-A. Educational agencies not to obtain compulsorily resignation letter either at the time of appointment or subsequently from the employees in their school -

(1) Whenever a Teacher or other person employed in a private school, tenders his resignation of appointment, he shall inform the fact of his resignation in writing by registered post with acknowledgement due to the District Educational Officer, Inspectress of Girls' School or the Deputy Inspector of Schools concerned.

(2) No Teacher or other person employed in a private school shall give



to the educational agencies, at any time, undated or pre-dated resignation letter.

(3) No Educational Agency shall insist or compel any Teacher or other person employed in private school to give, at any time, undated or pre-dated resignation letter.

(4) No Teacher or other person employed in a private school shall be relieved from service on the strength of resignation letter. The resignation letter shall, on receipt, be sent to the Chief Educational Officer concerned in respect of Teacher and other persons employed in High Schools, Higher Secondary Schools and Teachers' Training Institutes and to the District Educational Officer concerned in respect of Teacher and other person employed in a Pre-Primary, Primary and Middle Schools. The Chief Educational Officer or District Educational Officer concerned shall, in turn, get the confirmation of the Teacher or other person employed, as the case may be, as to the fact of such resignation and then accord his approval to relieve the Teacher or other person employed, as the case may be, from service.

(5) Entries regarding the date of acceptance of resignation of appointment shall be made by the Secretary of the School Committee, in the Teachers' Service Registers of the Teacher or in the Service Registers of the other persons employed in a private school under proper attestation and duly countersigned by the District Educational Officer or the Inspectress of Girls' Schools, as the case may be.

(6) No substitute shall be appointed in the place of a Teacher or other person employed in a private school who has been relieved on the basis of the resignation letter tendered by him, without obtaining prior approval of the Chief Educational Officer concerned in respect of the Teacher and other person employed in High Schools, Higher Secondary Schools and Teachers'



Training Institutions and the District Educational Officers concerned in respect of Teachers and other persons employed in Pre-Primary, Primary and Middle Schools."

9.It is to be seen that Rule 17-A was introduced only to safeguard the interest of the teachers or other persons employed in a private school. It empowers the authorities to ascertain as to whether there was any coercion or compulsion to give resignation. It is not uncommon to note that some private minority institutions, even at the time of appointment of a teacher in their school, get a resignation letter from the teacher concerned. Since teachers are put in jeopardy on several occasions, Rule 17-A was introduced to prevent such practice. Hence, Rule 17-A was introduced as an internal mechanism to prevent private schools from getting resignation letter by force. It is seen that after introducing Rule 17-A, the intimation regarding resignation letter of the teacher concerned itself should be sent by the teacher through registered post with acknowledgement due to the District Educational Officer and Inspectress of Girls' school. No teacher, employed in any private school, is supposed to give a resignation letter at any time either undated or predated. The said Rules also insist the educational agency not to insist or compel any teacher or any person employed in a private school to give resignation letter undated or predated.

10.As per Rule 17-A(4) of the Rules, the District Educational Officer cannot act upon such resignation letter of teacher or any person employed in a private school, without getting confirmation from the teacher concerned with regard to the fact that such resignation letter was obtained from the teacher concerned. No teacher shall be relieved and no substitute shall be appointed in the place of a teacher without obtaining prior approval from the District Educational officer.



11. It is in these circumstances, the dates and events narrated above would clearly show that the resignation could not have been approved by the third respondent without a confirmation from the teacher. However, the third respondent, in disregard to the Rules, has approved the resignation at the request of the management.

12. From the records, it is also revealed that the 3rd respondent has passed an order on 07.07.2015 ie., the date on which he received the proposal for approving the resignation of the first respondent from the Correspondent. It is also admitted before this Court that as per Rule 17-A, the 3rd respondent did not issue any notice to the first respondent before passing the order on 07.07.2015. It is admitted by the third respondent that confirmation on side of the first respondent was not obtained by the third respondent. All these factual aspects would clearly indicate that the third respondent has acted in violation of Rule 17-A of the Rules. The Learned Single Judge, having considered the mandatory provisions of Rule 17-A, has allowed the Writ petition and this Court has no reason to interfere with the order of the Learned Single Judge.

13. Considering the dates and events now furnished, this Court is able to see that the third respondent has acted in collusion with the appellants / Management to pass an order in haste so as to enable the appellants to appoint another candidate even before submitting the resignation by the first respondent. It is admitted that another teacher was appointed in the place of the first respondent on 26.06.2015, whereas, the approval for accepting resignation of the first respondent was granted only on 07.07.2015. The approval of resignation of the first respondent as well as the appointment of the new teacher in the place of the first respondent was simultaneously given. The management took a stand that they waited for few weeks after the resignation of teacher on 04.06.2015 and forwarded the resignation letter only on 23.06.2015. This statement is falsified by the letter dated 07.07.2015



WEB COPY



W.P.No.3702 of 2021

of Assistant Elementary Education Officer referring to the letter dated 04.06.2015. The contention of first respondent that she left the Congregation on 03.06.2015 and left the place on 03.06.2015 and that she had not given resignation letter on 04.06.2015 are acceptable. These aspects would clearly show that the individual interest of the teacher has to be protected by virtue of Rule 17-A which has been violated in this case. This Court is of the view that the act of the third respondent is contrary to law and the same is to help with the appellants/Management. The public officer like the third respondent is expected to follow the provisions of the Act and Rules meticulously. The very object of Rule 17-A has been defeated in this case. The 3rd respondent has taken pain to help the appellants / Management in utter disregard to the mandatory provisions. Hence, the appellant and the third respondent are liable to compensate the first respondent. Since the first respondent was denied back-wages by the Learned Single Judge on account of her submission that she would not claim back wages in case she is reinstated in service within 8 weeks, this Court is of the view that the first respondent is entitled to backwages as the appellants have preferred these appeals. The appellants and the third respondent in W.A.(MD)No.917 of 2018 are equally liable.

14. Accordingly, the third respondent is directed to compensate the first respondent by paying the salary of the first respondent from 04.06.2015 to 11.11.2015 to the first respondent. We further direct the 2nd respondent to initiate disciplinary proceedings against the third respondent (person who passed the order dated 07.07.2015) for dereliction of duty and also for his failure to observe the mandatory provisions of law. The claim if any for backwages for the subsequent period should be met by the Management.

15. The appellants / Management are bound to act in accordance with the provisions of law, which they were supposed to do. Even though this Court can direct the Government to take action against the appellants/Management



W.P.No.3702 of 2021

WEB COPY

for their deliberate violation of the provisions of law, we are inclined to restrict ourselves by directing the appellants / Management to pay the first respondent her salary from 07.07.2015 till she is reinstated. If the first respondent is agreeable to waive any or entire portion of back wages it is open to her to choose to purchase peace.”

4. Mr.P.Sanjai Gandhi, learned Government Advocate, submitted that the resignation letter was given by the petitioner voluntarily and it was not obtained by force or coercion; subsequent to her acceptance of the resignation letter, one Sister Stella has been appointed on 04.06.2018 and she continues to be in service; the request for approving the appointment of Sister Stella was also been made with the third respondent and the same is pending consideration.

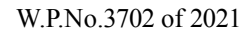
5. On perusal of the order dated 23.10.2019 made in W.P.No.30175 of 2019, a direction is given to the effect that the representations of the petitioner dated 07.07.2019 and 30.07.2019 should be enquired after affording an opportunity to the petitioner. According to the petitioner, till this date no enquiry has been conducted but the fourth and fifth respondent have chosen to appoint Sister Stella in the place of the petitioner.



W.P.No.3702 of 2021

6. The only contention raised by the learned counsel for the petitioner is that the alleged resignation letter was not given by the petitioner voluntarily and she was compelled to give the same. Despite the order dated 23.10.2019 an enquiry was ordered to be conducted and order has been passed on merits. The third respondent did not give any opportunity to the petitioner to participate in the enquiry and he had passed the impugned order in a mechanical fashion by just mentioning the date of appointment of the petitioner, date of approval and thereafter about her resignation letter.

7. Since the impugned order has been passed without understanding the letter and spirit of the order of this Court dated 23.10.2019 made in W.P.No.30175 of 2019, the order is liable to be set aside. Unless a proper enquiry is conducted about the circumstances in which the petitioner's resignation letter came into existence, the real facts behind the same cannot be known. The petitioner was working even in a consolidated pay from June 2013 to June 2017. Anyone who gets regularized and whose appointment has been approved by the authorities concerned, will not come forward to resign the post without any valid reasons. The petitioner would have been



8. The above irregularity would only show that something is fishy and was being overlooked by the third respondent. The petitioner's repeated representations was not considered even the order of the Court has not been applied in true letter and spirit. Despite the earlier order dated 23.10.2019, petitioner's representation was ordered to be considered on merits but



W.P.No.3702 of 2021

the impugned order was not passed in compliance of the order of the Court.

Hence, I feel that the impugned order is liable to be set aside.

9. Accordingly, this Writ Petition is allowed and the order passed by the second respondent in Pro.Na.Ka.No.3449/E2/2020 dated 08.12.2020 is hereby quashed. The second respondent is directed to reconsider the petitioner's representation dated 07.07.2019 & 30.07.2019 on merits and pass orders within a period of four weeks from the date of receipt of a copy of this order, after taking into consideration of the above circumstances and if any malpractise is found to be happened, it is the duty bestowed upon the third respondent to make a full fledged enquiry and take appropriate action against the school authorities.

15.11.2023

bkn



W.P.No.3702 of 2021

To:

WEB COPY

1. The Director of School Education,
Chennai – 600 006.
2. The Chief Educational Officer,
Thiruvannamalai.
3. The District Educational Officer,
Arni, Thiruvannamalai District.



WEB COPY



W.P.No.3702 of 2021

R.N.MANJULA ,J.

bkn

W.P. No.3702 of 2021

15.11.2023