



W.P.No.26855 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2023

CORAM

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.26855 of 2010

S.Rajaiah

... Petitioner

-VS-

1.The Director,
Teacher Education, Research
and Training,
Chennai - 6.

2.The Joint Director (Personnel),
Directorate of Teacher Education,
Research and Training,
Chennai - 6.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 1st respondent in his proceedings Ni.Mu.No.9499/A2/2010 dated 01.11.2010 and Na.Ka.No.4905/A2/2009 dated 02.11.2009 confirming the order passed by the 2nd respondent in his



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proceedings Na.Ka.No.4917/A2/2006 dated 05.03.2009 and Quash the same, and direct the respondents to confer all the consequential benefits.

For Petitioner : Mr.V.Sivalingam
for M/s.C.S.Associates

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

ORDER

This writ petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 1st respondent in his proceedings Ni.Mu.No.9499/A2/2010 dated 01.11.2010 and Na.Ka.No.4905/A2/2009 dated 02.11.2009 confirming the order passed by the 2nd respondent in his proceedings Na.Ka.No.4917/A2/2006 dated 05.03.2009 and Quash the same, and direct the respondents to confer all the consequential benefits.

2. The case of the petitioner is that he joined as B.T.Assistant (Tamil) on 03.08.1990 in an aided Management School. While he was working as



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B.T.Assistant (Tamil), he was selected and appointed as Lecturer in District Institute of Education and Training through Employment Exchange and posted at T.Kallupatti on 11.02.1997 and joined on 20.02.1997. While he was working at T.Kallupatti, his friend's relative by name Pichaimani approached him to help for admission in Teacher Training Institution for his friend's son by name Murugadoss and the petitioner has expressed his inability that in District Institute of Education and Training, being a Government Training Centre, he could not help. However, he requested him to get the boy's admission and he directed them to contact one Pastor by name A.Selvam and they requested the petitioner to take them and also just to help the boy since that boy wants to study the Teacher Training Course, introduced the said Pastor by name A.Selvam to help that boy for admission. The said Pastor by name A.Selvam has got proximity in Concordia Teacher Training Institute, Ambur and got admission for the said boy Murugadoss.

2.1. Learned counsel would submit that a fees for admission for two years that is a sum of Rs.2.50 Lakhs have been collected and also the capitation fee was also paid and the boy underwent the course for four



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months and the institution is a minority institution and there was a dispute between the Management and the boys afraid of the dispute in the Management abandoned the course and one such student is the said Murugadoss and he claimed the refund of the entire amount from the Management and they have approached the said Pastor A.Selvam. In this regard and the petitioner have nothing to do with it. When the said boy Murugadoss failed in getting the amount from the said Pastor A.Selvam they started to blame the petitioner and requested to help the boy the petitioner enquired with the said Pastor A.Selvam and he informed that there is dispute in the Management and to save the interest of the said boy he got admission in another Private Teacher Training Institute at Karaikkal and the said boy namely Murugadoss also joined there and thereafter returned to home. Immediately again he started to give complaint and report against the petitioner to other persons. The said Pastor A.Selvam informed the petitioner that the boy abandoned the Course in Karaikkal and for no fault of him in any event he undertook to repay the amount. The said boy also gave police complaint and the amount was settled between them and police complaint was also closed. The petitioner was placed under suspension on



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05.07.2006 and later on after closure of the criminal complaint, suspension was revoked. Thereafter, the charge memo was issued on 01.11.2007 and he submitted his explanation on 07.01.2008 and also appear for domestic enquiry on 08.04.2008.

2.2. Learned counsel would further submit that the domestic enquiry there was nobody from the department nor anybody was examined to prove the charges and on the other hand they gave a questionnaire form and asked him to fill up the same and they completed the enquiry. The Enquiry Officer submitted his report on 27.11.2008 and without furnishing the copy of the report of the Enquiry Officer and calling for explanation, the second respondent passed the order on 05.03.2009 and imposed punishment stopping increment for two years with cumulative effect. As against the same, the petitioner has preferred an appeal to the first respondent on 23.03.2009 and the first respondent rejected the appeal by order dated 02.11.2009 without considering any of the point raised by the petitioner in the appeal. Therefore challenging the order passed by the first respondent confirming the order passed by the second respondent, the petitioner has



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come forward with the present writ petition.

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2.3. The learned counsel would further submit that though the impugned order says that order is passed under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, for which no enquiry need to be conducted. Nevertheless having conducted enquiry and imposed punishment of stoppage of increment with cumulative effect, failed to follow the procedure in not furnishing the report of the Enquiry Officer and calling for explanation from the petitioner which is against the principles of natural justice.

2.4. The Enquiry Officer gave finding that two out of three charges are proved. The first charge against the petitioner is that the petitioner was present when Rs.2.50 Lakhs was given for Teacher Training admission in a private institute i.e., Concordia Teacher Training School, Ambur to the said Pastor A.Selvam on behalf of the student the said Murugadoss, which is in violation of Rule 20. It is also submitted that the respondents have not stated on what basis they have framed the charges. The petitioner just



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introduced the said boy to the said Pastor A.Selvam who was having proximity with the said private Institution at Ambur and there ends the matter. There is no evidence to show that the petitioner asked the said boy to give money by way of bribe or any amount. Unfortunately for helping the said boy who is aspiring for admission, the petitioner has been dragged into the picture. It is for the department to prove the charges beyond reasonable doubt and evidence. Nobody was examined on behalf of the department and on the basis of the explanation given by the petitioner for the charge memo, which is not supposed to be taken into consideration by the Enquiry Officer. The findings of the Enquiry Officer have been extracted in the impugned order passed by the second respondent from where alone it seems that the Enquiry Officer has given such finding on perverse basis and he submitted his report based on which finding, the impugned order came to be issued.

2.5. In regard to the second charge, it is submitted that the charge has been framed on the presumption that the said Concordia Teacher Training School is unrecognized Institution and as if the petitioner known about the same and he got admission for the said boy. It is nobody's case even



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including the department, the petitioner got admission for the said boy.

Therefore it is not the case based on the documents again to prove the charges with evidence. The petitioner never got admission for the said boy in the said private school. Therefore without any basis again relying upon the explanation of the petitioner, the Enquiry Officer has given finding, which is also perverse and without any application of mind. Therefore the impugned order passed by the second respondent based on the report of the Enquiry Officer is liable to be set aside.

2.6. The learned counsel would further submitted that the domestic enquiry has not been conducted in accordance with the law or instructions given by the Government by way of hand book as to how to conduct domestic enquiry. As per the guidelines given for the disciplinary proceedings, charges have to be framed explanation has to be called for and if explanation is not satisfactory thereafter they hold the enquiry and the report of the Enquiry Officer should be obtained and in the enquiry the management has to prove the charges let in evidence and thereafter the Enquiry Officer has to give finding on the basis of evidence collected by him



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during the enquiry as to charges are proved or not. In the instant case, nobody was examined. On the other hand questionnaire form was given to the petitioner after fill up the same and they wound up the enquiry. Neither the Enquiry Officer nor the disciplinary authority has taken into consideration and report whether they are accepting the same or refuse to accept for the reasons recorded therein. It is the duty of the Enquiry Officer is to collect evidence and give findings on the basis of examination collected by him, which he has derelicted and he has given finding on the presumption basis.

2.7. The learned counsel would further submit that the order passed by the first respondent is liable to be set aside as he has not considered any of the point raised by the petitioner in the appeal, which is against Rule 23A, under which the Appellate Authority has to consider each and every point and render finding, which he has filed.

3. The counter affidavit was also filed by the first respondent:

Wherein it is stated that in regard to the Charge No.1 while the



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petitioner was working as a Lecturer in the T.Kallupatti, District Institute of Education and Institution, along with Mr.Pichaimani and Mr.Selvam received the amount of Rs.2.50,000/- from Mr.Palanisamy and promised him to get admission in the Private Teacher Training Institute which is against to the Rule 20(i)(ii) the Tamil Nadu Government Servants Conduct Rules, 1973. In regard to the Charge No.2 is that the petitioner along with Mr.Pichaimani and Mr.Selvam gave Rs.50,000/- to the Management of unrecognized Concordia Teacher Training Institute, Ambur at the and obtaining admission which is contradictory to the Rule 20(i)(ii) of the Tamil Nadu Government Servants Conduct Rules, 1973. The Charge No.3 that the petitioner again gave Rs.20,000/- to the Management of Maiyani Teacher Training Institute and got admission and swending the remaining amount which is against the Rule 20(i)(ii) of the Tamil Nadu Government Servants Conduct Rules, 1973.

3.1. In regard to Charge No.1, the petitioner has give an explanation that he did not receive a sum of Rs.2,50,000/- from Mr.M.Palanisamy for getting admission in the Private Teacher Training Institute. In regard to Charge No.2, the petitioner has give an explanation that he was present in



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the spot at the time of money transaction. In regard to Charge No.3, the petitioner has give an explanation that the petitioner did not receive the amount of Rs.2,50,000/- directly and did not involve in any activities with cheating intention against Tamil Nadu Civil Services Conduct Rules and being a teacher in the District Institute of Education and Institution and in order to help others in the matter in good faith without criminal intention.

3.2. In regard to the findings of the Enquiry Officer for Charge No.1 though the petitioner refused the charge no.1 but during the enquiry held on 08.04.2008 he accepted the fact that he was present during the money transaction of a sum of Rs.2,50,000/- for getting admission. **Hence the charge has been proved.** Charge No.2, the finding of the Enquiry Officer is that in the enquiry the petitioner has involved that he also accompanied with Pastor A.Selvam during the admission of Palanisamy's son in Concordia Teacher Training Institute, Ambur in Vellore District and the petitioner who was working as Lecturer in T.Kallupatti in Madurai District went to the other District which was not connected to him and accompanied to get admission. **Hence, it is in violation of the Tamil Nadu Government**



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Servant Conduct Rules, 1973 and the charge has been proved. Charge

No.3, the finding of the Enquiry Officer is that there is no documentary evidence and direct enquiry did not reveal that the petitioner directly involved for getting admission for Palanissamy's son in the Maiyani Teacher Training Institute in Karikkal. **Hence, the third charge is not proved.**

3.3. It is further submitted by the learned Additional Government Pleader that the Joint Director (Administration) has scrutinized all the relevant records, files, Rules and the enquiry report based on the charges framed against the petitioner and imposed a punishment of stoppage of increment of two years with cumulative effect vide proceedings Na.Ka.No.4917/A2/2006 dated 05.03.2009 of the Joint Director (Administration), Directorate of Teacher Education Research Training, Chennai - 6.

3.4. The Director, Directorate of Teacher Education Research Training has carefully gone through all the relevant records, Enquiry Officer findings and orders passed by the competent authority and the order



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confirmed the punishment imposed by the Joint Director of Teacher Education Research and Training vide Ni.Mu.No.4905/A2/2009 dated 02.11.2009.

3.5. He also further submitted that the petitioner has applied to regulate the suspension period from 19.05.2006 to 19.08.2007 as duty period. Since, the punishment imposed (Stoppage of two increment with cumulative effect) for the proved two charges the request of the petitioner to regulate the suspension period as duty period could not be considered and the period of suspension should be treated as eligible leave vide Ni.Mu.No.9499/A2/2010 dated 01.11.2010 of the first respondent.

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

5. In the instant case, the petitioner has working as a Lecturer in T.Kallupatti, District Institute of Education and Training and posted at T.kallupatti on 11.02.1997 and joined on 20.02.1997. At the time of filing



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the writ petition he was working as Senior Lecturer in the District Institute of Education and Training, Perundurai, Erode District. The petitioner was issued a show cause notice vide Na.Ka.No.4917/A2/2006, dated 01.11.2007 as per Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, three charges have been framed against the petitioner and granted 21 days time to offer his explanation.

6. The three charges have stated above were framed against the petitioner and he submitted his explanation also and being not satisfied with the explanation the enquiry was conducted and the Enquiry Officer submitted his report on 27.11.2009. **In regard to Charge Nos.1 and 2 the findings of the Enquiry Officer is that the charges have been proved and regarding the third charge does not proved. The petitioner working as Lecturer that too in the District Institute of Education and Training ought not to have involved these kind of activities which in violation of the Tamil Nadu Government Servants Conduct Rules, 1973.** His explanation that the petitioner being a teacher in a District Institute of Education and in order to help others in good faith tried to held the



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candidate to get admission in Private Teacher Training Institution and he has not received any money directly from the concerned parties is unsustainable.

7. It is pertinent to note that in regard to the Charge No.3 the documentary evidence and the Direct Enquiry did not reveal that the petitioner directly involved for getting admission for M.Palanisamy's son. In regard to the Charge Nos.1 and 2 the petitioner has admitted the fact that he was present during the money transaction and he has also accompanied Pastor A.Selvam during the admission of Mr.M.Palanisamy's son in Concordia Teacher Training Institute which is in Ambur in Vellore District and the petitioner was working at T.Kallupatti, Madurai District which in violation of the Tamil Nadu Government Servants Conduct Rules, 1973. **In view of the fact that the two charges were proved during the enquiry and the petitioner himself admitted in regard to Charge Nos.1 and 2, the punishment was imposed by the competent authority (second respondent) based on relevant records, filed, Rules and enquiry report is correct which is also confirmed by the Appellate Authority Director, Directorate of Teacher Education Research Training, Chennai - 6**



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dated 02.11.2009. Hence, there is no infirmity in the above orders which warrants interference by this Court.

8. In view of the above factual matrix of the case, the order passed by the 1st respondent in his proceedings Ni.Mu.No.9499/A2/2010 dated 01.11.2010 and Na.Ka.No.4905/A2/2009 dated 02.11.2009 confirming the order passed by the 2nd respondent in his proceedings Na.Ka.No.4917/A2/2006 dated 05.03.2009 is hereby confirmed.

9. In the result, W.P.No.26855 of 2010 stands dismissed. No costs.

21.06.2023

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

1.The Director,
Teacher Education, Research
and Training,
Chennai - 6.

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2. The Joint Director (Personnel),
Directorate of Teacher Education,
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