



W.P.No.20917 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.20917 of 2022 & WMP.No.19948 of 2023

B.Ilangeswaran

... Petitioner

Vs

1. The Commissioner,
Directorate of School Education,
DPI Campus, College Road, Chennai – 600 006.

2. The joint Director of School Education
[Higher Secondary], Directorate of School Education,
DPI Campus, College Road, Chennai – 600 006.

3. The Chief Educational Officer,
Tirupattur District, Tirupattur.

... Respondents

Prayer:- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned proceedings issued by the third respondent in Na.Ka.No. 133/2020[A2] dated 24.10.2020 and the subsequent impugned proceeding issued by the second respondent in Na.Ka.No.48657/W2/E3/2021 dated 19.05.2022 and to quash the same.



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For Petitioner : Mr.G.Sankaran, Senior Counsel,
for S.Nedunchezian

For respondents : Mr.S.Prabhakaran,
Government Advocate

ORDER

This Writ Petition has been filed to quash the impugned proceedings issued by the third respondent in Na.Ka.No. 133/2020[A2] dated 24.10.2020 and the subsequent impugned proceeding issued by the second respondent in Na.Ka.No.48657/W2/ E3/2021 dated 19.05.2022.

2. The petitioner was initially appointed as P.G. Assistant [Maths] in School Education Department through TRB on 08.07.2004. While the petitioner was working in Koratti Government Higher Secondary School in the year 2014, he was implicated in a criminal case filed by one Jayakrishnan of Kerala and based on the said complaint, the petitioner was arrested in Crime No.5 of 2014 for the alleged offences under sections 406, 420, 120[b] and 34 of IPC and he was remanded to custody for more than 48 hours. Therefore, the petitioner was placed under



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suspension. Thereafter, a charge memo has been issued for unauthorised absence for a period of 10 days and no intimation for involvement of the petitioner in a criminal case. Later, it appears that the said First Information has been closed as 'mistake of facts' by the concerned police station. This fact has not been disputed.

3. The departmental proceedings proceeded against the writ petitioner on the basis of three charges. viz., unauthorized absence for 10 days, First Information Report in Crime No.5 of 2014 has been registered against the petitioner and he has not intimated about his remand in the criminal case. Pursuant to the closure of the First Information Report, suspension of the petitioner has been revoked. However, the departmental proceedings continued. In the departmental proceedings, the CEO has inflicted a punishment of censure. The same has been put in challenge before the appellate authority, the Joint Director of School Education. In the appeal, taking note of the fact that a Power of Attorney has been executed in the name of the petitioner by the owner of the property and thereby he has violated Rule 7[1] [a] of Tamil Nadu



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Government Servants Conduct Rules, punishment of censure awarded by disciplinary authority has been confirmed.

4. It appears that thereafter, a second charge memo has been issued to the petitioner and four charges have been framed against the petitioner. The primary charge is that the writ petitioner, being a Government servant, without permission from the authorities, got Power of Attorney registered in his favour. Therefore, there is violation of Rule 7[1] [a] of Tamil Nadu Government Servants Conduct Rules. Similarly, charge No.2 was framed with regard to the subsequent cancellation of the Power of Attorney and the charge 3 and 4 are connected with first charge. Once again, disciplinary proceedings has been conducted and the petitioner was inflicted with a punishment of stoppage of increment for a period of one year. Challenging the same, appeal has also been filed and the appeal has been rejected. Therefore, the present Writ Petition has been filed. Therefore, this Writ Petition came to be filed.

5. The main ground on which the present Writ Petition has been



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filed is against the punishment inflicted in the departmental proceedings continued for the same charges which has already been concluded in the earlier departmental proceedings. Further, there is no violation of Rule 7[1] [a] of Tamil Nadu Government Servants Conduct Rules. The writ petitioner never purchased any property contrary to the rules. It has not been considered by the disciplinary authorities.

6. Counter has been filed though admitting that in the earlier disciplinary proceedings punishment of censure was confirmed, it is their contention that the present charges have been framed for violation of Rule 7[1] [a] of Tamil Nadu Government Servants Conduct Rules. Further, the writ petitioner has also acted as a mediator. Therefore, the disciplinary authority has found that the charges have been established.

7. Heard both sides and perused the entire materials available on record.



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8. The main contention of the learned counsel for the petitioner is that the petitioner cannot be punished for the same charges twice. In the earlier disciplinary proceedings, while confirming the punishment of censure, the appellate authority has taken note of the Power of Attorney executed in favour of the petitioner and infact he has also held that there is violation of Rule 7[1] [a] of Tamil Nadu Government Servants Conduct Rules. Hence, punishment of stoppage of increment for a second time for the same set of charges is not sustainable in the eye of law.

9. Whereas, it is the contention of the learned counsel for the respondent that the petitioner has infact had obtained Power of Attorney in his favour besides he has also acted as a mediator. Hence, opposed the Writ Petition.

10. I have perused entire materials. As far as the findings in the disciplinary proceedings is concerned, interference of the Court will be



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very slow while exercising its power under Article 226 of Indian Constitution. But, at the same time, if the finding in a disciplinary proceedings is based on no evidence or erroneous consideration of irrelevant materials, the Court can still go into the finding recorded by the disciplinary authorities. The main charge against the writ petitioner is that he has purchased a property in his name without permission from the authorities and thereby he has violated Rule 7[1] [a] of Tamil Nadu Government Servants Conduct Rules. The fact that the petitioner has already been charged for unauthorized absence for 10 days and not intimating the remand period and involvement in a criminal case, he has already been proceeded in a similar set of charges. Wherein the appellate authority in the above disciplinary proceedings already considered that there is violation of Rule 7[1] [a] of Tamil Nadu Government Servants Conduct Rules and confirmed the punishment of censure. Thereafter, it appears that for a second time a similar charges have been framed for violating Rule 7[1] [a] of Tamil Nadu Government Servants Conduct Rules.



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11. It is relevant to note that Rule 7[1] [a] of Tamil Nadu Government Servants Conduct Rules will get attracted when there is purchase of a movable or immovable property by a Government servant without the permission from the prescribed authority. In this case, no property, whatsoever, has been purchased by the petitioner. In fact the authorities have misconstrued that the property has been purchased in the name of the Government Servant. The Power of Attorney is a document executed by a principal to appoint somebody to act on his behalf. Therefore, the Power of Attorney executed in favour of a Government Servant cannot be construed as a purchase of an immovable property. One of the charge is that since the Power of Attorney has been cancelled by the principal later, the Government servant has also violated the conduct rules. Such misconception by the authorities cannot be sustained in the eye of law. It is just an act of a principal to appoint somebody to act on his behalf. When the Power of Attorney has been cancelled by the principal himself, the Government servant cannot be departmentally proceeded. Be that as it may.



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12. Once, the earlier charges also relate to the same allegations wherein he has also been punished with censure, once again, the Government servant cannot be subjected to departmental proceedings in a similar set of allegations, if such departmental proceedings is allowed to be continued, the same is nothing but double jeopardy. Accordingly, the manner in which the departmental proceedings conducted and concluded, construing the Power of Attorney as a sale of the property, cannot be sustained in the eye of law. Further, to hold that the petitioner acted as a mediator, absolutely there is no materials. Except the Power of Attorney Deed, no other materials, whatsoever, is available. The Power of Attorney deed is only delegation of power to an agent for certain act on behalf of the principal. Such being the position, the said Power of Attorney deed cannot be taken as an evidence to show that he has acted as a mediator.

13. Admittedly, the criminal case has also been dropped by the Kerala Police. In such view of the matter, when a person is inflicted with a punishment, on the similar set of allegations, once again imposing



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punishment in a separate proceedings for the same allegations cannot be sustained in the eye of law.

14. Accordingly, the impugned proceedings of the third respondent dated 24.10.2020 inflicting stoppage of increment for a period of one year and subsequent proceedings of the second respondent dated 19.05.2022 stand quashed and this Writ Petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

20.07.2023

Index:Yes/No

Neutral Citation : Yes/No

vrc

To,

1. The Commissioner,
Directorate of School Education,
DPI Campus, College Road, Chennai – 600 006.



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2. The joint Director of School Education
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N.SATHISH KUMAR, J.

VTC

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