



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2023

CORAM

THE HON'BLE Mr. JUSTICE **C. V. KARTHIKEYAN**

W.P.No.25697 of 2019
and
W.M.P.No.25174 of 2019

E. Arunachalam

.. Petitioner

Vs.

1.The Director of Elementary Education
College Road,
Chennai – 6.

2.The Additional Assistant Elementary Education Officer
Mugaiyur,
Villupuram District.

3.The Principal Accountant General (A&E)
Tamil Nadu Circle,
361, Anna Salai, Teynampet,
Chennai – 600 018.

.. Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating of the 1st respondent in Na.Ka.No.34796/I2/2013 dated 16.02.2018 and the consequential order passed by the 2nd respondent herein in Na.Ka.No.512/A2/2018 dated 20.03.2018 and to quash the same and



consequently direct the respondents herein to regularize the suspension period from 25.01.2002 to 20.01.2004 as duty for all purposes and refix the petitioner's pay scale with due regards to the petitioner's seniority and confer all the retirement benefits with interest.

For Petitioner .. Mr. R. S. Anandan

For Respondents .. Mr. T. K. Saravanan, Govt. Advocate

ORDER

This writ petition has been filed in the nature of Certiorarified Mandamus seeking records relating to the proceedings of the 1st respondent, the Director of Elementary Education, College Road, Chennai in Na.Ka.No.34796/I2/2013 dated 16.02.2018 and the consequential order passed by the 2nd respondent, the Additional Assistant Elementary Education Officer, Mugaiyur, Villupuram District in Na.Ka.No.512/A2/2018 dated 20.03.2018 and to quash both the said orders and direct the respondents to regularize the suspension period from 25.01.2002 to 20.01.2004 as duty for all purposes and to refix the pay scale of the petitioner herein.



2. The petitioner had joined services on 02.01.1967 as Higher Grade Teacher at Panchayat Union Elementary School. He was then promoted in various posts and finally posted as Headmaster in Middle School on 21.01.2004. He retired from service on 31.05.2005. When he was earlier work as Additional Assistant Elementary Education Officer at Tirunavalur, Villupuram District, a charge memo had been issued to him, which was dated 04.01.2002. He was also placed under suspension by an order dated 04.01.2002. He had given his explanation to the charges and had challenged the suspension order before the Tamil Nadu Administrative Tribunal by filing O.A.No.5 of 2003.

3. It is claimed by the petitioner that the Original Application was allowed, but that he was not reinstated into service. Thereafter, by an order dated 20.01.2004 of the District Elementary Education Officer, the suspension order was revoked. The petitioner was reinstated to service and posted as Headmaster Middle School, Mugaiyur Panchayat Union School. The enquiry, however, proceeded and finally, a report was filed on 13.05.2004 holding that the charges were not proved. The 1st respondent, however had held that one of the charge stood proved and awarded punishment of censure by an order dated 31.05.2005. However, no order was



independently passed with respect to regularizing the period of suspension.

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4. Questioning this particular fact, the present writ petition has been filed.

5. It is trite in law to point out that the order of punishment of censure could not be held against the public servant permanently. It is not a major penalty. If it is to be so passed, then any order of suspension should be regularized into service. The petitioner is seeking just that particular relief. It is also not known whether the 1st respondent had issued notice to the petitioner before differing from the findings of the enquiry officer with respect to the sixth charge holding it as proved while the enquiry officer had held that it was not proved.

6. Be that as it may, the only punishment imposed is censure, which does not entitle the respondents to treat the suspension period as a period to be kept permanently in suspension without granting any relief to the petitioner for that particular period and without regularizing that particular period.

7. On the side of the respondents, however, it had been contended that the petitioner having suffered an order of punishment should suffer the consequence thereof.



8. That as a fact is correct. Any order of punishment including that of censure would disentitle the petitioner to be promoted for a period of six months or one year depending on the circumstances. But, it would not mean that the earlier period of suspension should be held against the petitioner herein without the said period being regularized. Censure is only a minor punishment and I would direct the respondents to pass an order to regularize the period of suspension between 25.01.2002 to 20.01.2004 as being in service. The petitioner is entitled for the difference in salary between the regular pay and the subsistence allowance which had been paid to him, and necessary proceedings in this regard may be issued within a period of twelve weeks from the date of receipt of a copy of this order.

9. With the above observations, this Writ Petition stands allowed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

16.08.2023

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking order: Yes/No
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To

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C.V.KARTHIKEYAN,J.

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