



W.P.(MD)No.8747 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.8747 of 2020

and

W.M.P(MD)No.8046 of 2020

B.Arunkumar

... Petitioner

Vs.

1.The Director of Elementary Education,
Directorate of Elementary Education,
College Road, Chennai-600 006.

2.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Dindigul,
Dindigul District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order in Na.Ka.No.3060/Ee1/2017, dated --. 05.2020, signed on 02.07.2020 on the file of the second respondent and quash the same as illegal.



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For Petitioner : Mr.S.Louis
For Respondents : Mr.S.Saji Bino
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned order passed by the second respondent dated --.05.2020, signed on 02.07.2020 and to quash the same.

2. The case of the petitioner is that he was appointed as Secondary Grade Teacher in Panchayat Primary School, Thonthilingapuram, Kottampatti Union, Madurai District in the year 1991. Thereafter, he was promoted to the post of Headmaster in Panchayat Union Middle School, E.Kottaipatti, Sedapatti Union, Madurai District. Subsequently, he was promoted to the post of Block Educational Officer in Guziliamparai Block, Dindigul District. While he was serving as Block Educational Officer in Vedasandur Block, the first respondent has issued a charge memo against the petitioner under Section 17(b) of the Tamil Nadu Civil Services



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(Discipline and Appeal) Rules, 1955. Pursuant to the same, the present impugned order has been passed. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the first respondent has issued a charge memo levelling five charges against the petitioner and the allegations made against the petitioner are false and he has given a detailed explanation on 05.06.2018. Thereafter, an enquiry was conducted on 14.09.2018, in the presence of the enquiry officer. Thereafter, the enquiry officer has submitted a report before the second respondent, who is authorised by G.O.(Ms).No.101, School Education Department, dated 18.05.2018, to pass final orders in the departmental proceedings. However, no final order was passed by the second respondent. Hence, the petitioner has filed a writ petition in W.P. (MD).No.6732 of 2020 before this Court and the same was disposed of on 15.06.2020, directing the second respondent to pass final orders within a period of eight weeks from the date of receipt of a copy of this order. Thereafter, the second respondent has passed the impugned order, imposing



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the punishment of stoppage of increment for one year without cumulative effect. Challenging the same, the present writ petition has been filed solely on the ground that the enquiry report was not served on the petitioner to enable him to give an effective explanation.

4. The learned Special Government Pleader appearing for the respondents would submit that though the punishment of stoppage of increment for one year without cumulative effect was imposed by the original authority, the punishment was already implemented. Hence, nothing survives in this writ petition for adjudication. Further, as against the order passed by the original authority, there is an effective appeal remedy in terms of Rule 19 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, before the appellate authority and without exhausting the appeal remedy available, the petitioner has filed the present writ petition.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.



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6. Considering the above facts, this Court is of the view that against the order passed by the original authority, there is an effective appeal remedy before the appellate authority in terms of Rule 19 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and without exhausting the appeal remedy, the petitioner has filed the present writ petition. Hence, this Court grants liberty to the petitioner to file an appeal before the appellate authority, within a period of four weeks from the date of receipt of a copy of this order and if such appeal is filed, the appellate authority is directed to pass appropriate orders, as expeditiously as possible.

7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

05.01.2023

NCC :Yes/No
Index : Yes / No
Speaking Order : Yes / No

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M.DHANDAPANI,J.

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