



W.P.(MD)No.4548 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.4548 of 2018
W.M.P(MD).No.4647 of 2018

M.Sundar

... Petitioner

Vs.

The Joint Director of School Education (Vocational),
Nungambakkam,
Chennai-6.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings in Na.Ka.No.39412/V1/E3/2008 dated 25.08.2015, issued by the respondent, received by the petitioner on 08.12.2017 through the Headmaster of Government Girls Higher Secondary School, Sholavandan, Madurai, vide communication of the Chief Educational Officer, Madurai, in his proceedings dated 27.11.2017 and quash the same.



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For Petitioner : Mr.B.Prahalad Ravi

For Respondents : Mr.T.Amjad Khan

Government Advocate

ORDER

This Writ Petition has been filed to call for the records relating to the impugned proceedings in Na.Ka.No.39412/V1/E3/2008 dated 25.08.2015, issued by the respondent, which has been received by the petitioner on 08.12.2017 through the Headmaster of Government Girls Higher Secondary School, Sholavandan, Madurai, vide communication of the Chief Educational Officer, Madurai, in proceedings dated 27.11.2017 and quash the same.

2. The case of the petitioner is that the petitioner was appointed as Vocational Instructor in the commerce discipline in the year 1992. Right from the date of appointment, he has been discharging his duties in the above post to the satisfaction of the superior officials concerned. While so, in respect of an incident alleged to have been taken place on 12.04.2008, a charge memo came to be issued to the petitioner on



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27.06.2008 by the respondent containing five charges. The sum and substance of the charge is that on 12.04.2008, the petitioner being the Vocational Instructor, had quarreled with the drawing Master in the school premises in front of the students and public at large, thereby bringing down the image of the school. Thereafter, the Enquiry Officer was appointed and the Enquiry Officer directed him to appear for enquiry on 19.11.2008 and he appeared before the Enquiry Officer. Though the charge memo has been issued in the year 2008, since no final order came to be passed for quite long period, the petitioner has filed a writ petition in W.P(MD).No.19967 of 2014 before this Court. When the said writ petition was pending, the respondent has imposed the punishment of cut in increment for a period of three months without cumulative effect vide the impugned order dated 25.08.2015, which has been issued to the petitioner, after he made a representation to furnish the copy of the order of punishment. Challenging the same, the present writ petition has been filed.



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3. The learned counsel appearing for the petitioner would submit that the petitioner has appeared before the Enquiry Officer. Challenging the manner in which the enquiry was conducted and since no final order has been passed, the petitioner has filed a writ petition in W.P(MD).No.19967 of 2014 and the same was dismissed as infructuous on the ground that the punishment was imposed. However, the enquiry was not conducted in the procedure contemplated as per the law and the respondent has mechanically arrived at a conclusion, without proving the charges levelled against the petitioner. Only based on the enquiry report, the Disciplinary Authority, without any discussion, has passed the impugned order dated 25.08.2015 imposing the punishment of cut in increment for a period of three months without cumulative effect. Further, the incident had happened in the year 2008, and however, the punishment was imposed only in the year 2015, after a lapse of seven years. Hence, he prays for passing appropriate orders.

4. The learned Government Advocate appearing for the respondents would submit that the writ petition is liable to be dismissed



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on the ground of availability of effective alternative remedy before the Director of School Education, Chennai, as against the final order passed by the respondent in disciplinary proceedings initiated against him. Admittedly, a show cause notice was issued to the writ petitioner as to why the departmental enquiry should not be initiated against him. Since the explanation offered by the petitioner was not satisfied, the respondent has issued the charge memo dated 27.06.2008. Further, after due enquiry, the Enquiry Officer gave his report dated 19.12.2008. The respondent found that the writ petitioner being the vocational Instructor, should have been stood as an example for the students, but the manner in which he acted on the day of occurrence, has caused damage to the reputation of the School. Since there was no interim order granted by this Court in W.P(MD).No.19967 of 2014, there was no impediment for the respondent to pass final orders on the disciplinary proceedings initiated against him. The respondent, after considering the facts and the explanation submitted by him, has rightly imposed the minimum punishment of cut in increment for a period of three months without cumulative effect vide the impugned order dated 25.08.2015.



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

6. The facts in the present case are not in dispute. Admittedly, on 12.04.2008, the petitioner being the Vocational Instructor, had quarreled with the Drawing Master in front of the students and public in the school premises and thereby, the enquiry proceedings was initiated against the petitioner and other two teachers. Thereafter, the respondents, after conducting enquiry, has imposed the punishment of cut in increment for a period of three months without cumulative effect against the petitioner and other two teachers. However, the grievance of the petitioner is that the punishment was imposed without conducting the enquiry as per the procedure contemplated under law and without any discussion and though the incident had happened in the year 2008, the punishment was imposed only in the year 2015, after a lapse of seven years.

7. The fact remains that admittedly, the incident had taken place in the year 2008 and thereby, a criminal case was registered against the



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petitioner by the Law Enforcing Agency. Thereafter, the same was referred as mistake of fact and the charge memo was issued to the petitioner in the year 2008 itself. The Enquiry Officer was appointed and the enquiry proceedings was initiated against the petitioner. In the meanwhile, the petitioner has filed a writ petition in W.P(MD).No.19967 of 2014 challenging the charge memo. After obtaining the opinion from the learned Government Advocate, in the absence of any interim order, the respondent has passed the impugned order dated 25.08.2015 imposing the punishment of cut in increment for a period of three months without cumulative effect against the petitioner and other two teachers. Further, the petitioner has filed the present writ petition challenging the impugned order dated 25.08.2015 after a lapse of 2 ½ years and the punishment imposed against the petitioner is only the minimum punishment of stoppage of increment for a period of three months without cumulative effect. Hence, this Court is not inclined to interfere with the impugned order passed by the respondent.



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8. At this juncture, the learned counsel appearing for the petitioner would submit that since the petitioner is going to retire shortly, this Court may issue a direction to the respondent to implement the punishment imposed against the petitioner and allow the petitioner to retire from service.

9. Considering the submission made by the learned counsel appearing for the petitioner, the respondent shall implement the punishment imposed against the petitioner as early as possible and allow the petitioner to retire from service.

10. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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NCC:Yes/No
Index:Yes/No
Internet:Yes/No

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To
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Nungambakkam,
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M.DHANDAPANI,J.

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