



W.A.(MD)No.1133 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.08.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.1133 of 2015
and MP(MD).Nos.1 & 2 of 2015

M.Malaiyarasan
Headmaster (Retd)
Government Higher Secondary School
Allinagaram
Theni District

...Appellant

/Vs./

1.The Principal Secretary to Government
School Education Department
Government of Tamil Nadu
Fort ST.George, Chennai 600 009

2.The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge Road
Chennai 600 003

3.The Director of School Education
College Road
Chennai 600 006



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4.The Chief Educational Officer
Theni, Theni District

5.The Enquiry Officer /Joint Director
of Higher Secondary School
School of Education Department
Chennai

...Respondents

PRAYER:- Writ Appeal - filed under Clause 15 of Letters Patent Act, to set aside the order dated 04.08.2015 made in WP(MD).No.13817 of 2015 on the file of this Court.

For Appellant	: Mr.K.Appadurai
For R1, R3 to R5	: Mr.V.Om.Prakash Government Advocate
For R2	: Mr.J.Anand Kumar Standing Counsel

JUDGMENT

(Judgment of the Court was made by **R.VIJAYAKUMAR, J.**)

The writ petitioner is the appellant.

2.The writ petitioner was working as a Headmaster of Government Higher Secondary School, Kadamalaikundu, Theni District and he was about to retire on 30.09.2011. He made a request on

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21.08.2012 to extend his services till the end of the academic year up to 31.05.2013. Therefore, the petitioner was transferred from Kadamalaikundu to Allinagaram, Theni District and a charge memo was served on the writ petitioner on 26.09.2012. The three charges that were levelled against the writ petitioner are as follows:

(1)The writ petitioner was alleged to have collected Rs.50/- from each one of the 449 students totalling Rs.22,450/- for issuing transfer certificate to the students from VI Standard to X Standard during the academic year 2010-2011.

(2)The petitioner was alleged to have collected Rs.200/- from each of the 220 students totalling Rs.44,000/- as computer fee from the students from XI Standard to XII Standard during the academic year 2011-2012 without issuing proper receipt and misappropriated the same.

(3)The petitioner was alleged to have collected Rs. 300/- from each one of the 232 students totalling Rs.69,600/- towards donation from students of XI and XII Standards during the academic year 2011-2012 without issuing property receipt and misappropriated the same.



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3.The petitioner had filed WP(MD).No.12972 of 2012 challenging the denial of re-employment. The petitioner had also filed a writ petition challenging the charge memo. The petitioner had submitted his explanation and not being satisfied with the said explanation, an enquiry was ordered.

4.The defence of the petitioner was not accepted and he was found guilty on all the three charges. The petitioner had submitted his explanation to the enquiry report on 30.05.2014. The Government sought his consent for the proposed punishment of deduction of Rs.1000/- per month from his monthly pension by proceedings dated 13.10.2014. The petitioner had submitted his reply on 07.11.2014 objecting to the proposed punishment.

5.The first respondent sought approval from TNPSC by proceedings dated 25.05.2015. The TNPSC had expressed their consent for confirming the proposed punishment. Based upon the said letter, the Government had passed G.O.(1D).No.223, School Education (PaKa1(2) Department, dated 01.07.2015 imposing a punishment of deduction of Rs.1000/- per month from the pension of the writ petitioner for a period



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of two years. The Government order and the other preceding orders were challenged in WP(MD).No.13817 of 2015.

6.The Writ Court after hearing the submissions on either side, found that the writ petitioner, had collected donations from the students studying in a Government School and therefore, the punishment imposed upon the writ petitioner for a period of two years does not warrant interference and dismissed the writ petition. Challenging the same, the present writ appeal has been filed.

7.The learned counsel for the appellant had contended that the petitioner had never collected any amount from the students for issuance of transfer certificate. He had further contended that the computer fee collected from the students is evidenced through the School documents and therefore, the allegation of misappropriation is not factually correct. He had further contended that even for collection of Rs.200/- from XI Standard students, proper receipts are available in the School and no amount was collected from XII Standard students. Since he was transferred abruptly, he could not produce the said records.



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8.The learned counsel had further contended that the writ Court has not properly appreciated the explanation offered by the writ petitioner to each one of the charges and has simply dismissed the writ petition relying upon the enquiry report that the petitioner has collected donation. In fact, the petitioner has not collected any donation and the amounts that were collected have been properly deposited to the School account which could be evidenced from the records available in the School. Hence, he prayed for setting aside the order of the writ Court and the order impugned in the writ petition and to disburse the retirement and other service benefits.

9.Per contra, the learned Government Advocate appearing for the respondents had contended that the petitioner has nowhere refuted the allegation of collection of money from the students. He had only contended that those amounts have been properly evidenced by the School records and he has not misappropriated the same. He had further contended that none of the amount has been credited to the Government Treasury. As per the contention of the writ petitioner, the amounts have been credited to the bank account of the Parent Teachers Association



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which is contrary to the Rules of Parent Teachers Association and also Government Employees Conduct Rules.

10. We have given anxious consideration to the submissions made on either side and perused the material records.

11. In Paragraph Nos.6 to 8 of the writ affidavit, while answering the charges levelled against him, the writ petitioner has categorically admitted that he had collected funds from the students relating to all the three charges. As far as the first charge is concerned, the defence of the writ petitioner is that the funds were collected through Parent Teachers Association and they were utilized for development of the School. As far as the second charge is concerned, it is the case of the writ petitioner that they have been deposited into the bank account under various receipts. As far as the third charge is concerned, his contention is that he had deposited the amount into School development funds and thereafter paid into the treasury.

12. A perusal of the explanation submitted by the writ petitioner to the charge memo dated 25.09.2012 indicates that the petitioner had denied collecting any funds for issuance of transfer certificate in relation



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to the first charge. As far as the charges 2 and 3 are concerned, the petitioner had contended that the funds collected are reflected in the School document and he has not misappropriated the same. The petitioner had annexed a treasury challan dated 11.12.2012 which indicates that the petitioner had deposited a sum of Rs.1,13,600/- on the said date which is after issuance of charge memo. That apart, in the writ affidavit, the petitioner had admitted that he had collected funds for issuance of transfer certificate through Parent Teachers Association. Though the petitioner has contended that the amounts collected were deposited into the bank account, no records have been placed either before the Enquiry Officer or before this Court to substantiate the same.

13.The learned counsel for the appellant had relied upon the proceedings of the Chief Educational Officer, dated 13.08.2003 to contend that the School was permitted to collect Rs.100/- as special fee from XI and XII Standard students towards computer education. As far as the third charge relating to computer education is concerned, the petitioner has admitted while submitting his explanation to the proposed punishment that he had collected at the rate of Rs.200/- from XI Standard



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students. Therefore, it is clear that the writ petitioner had collected more than what has been authorized by the educational authority.

14.The learned counsel for the appellant had further relied upon Rule 15 of the Parent Teachers Association to contend that the Parent Teachers Association is entitled to receive donations. We are not in agreement with the said submission, in view of the fact that the amounts that have been collected by the writ petitioner are not by way of voluntary donations, but compulsorily collected from all the concerned students.

15.The writ Court was right in arriving at a finding that the petitioner is guilty of collecting donations from the students under the garb of Parent Teachers Association. Even assuming that the petitioner is authorized to collect the said amount, the entire amount should have been credited to the Government account but instead the fund has been credited to the account of Parent Teachers Association Bank account. Viewed from any angle, we do not find any reason to interfere in the order passed by the Writ Court in confirming the punishment imposed upon the writ petitioner. The Writ Appeal lacks merits and the same



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stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[A.S.M.J.] & [R.V.J.]
08.08.2023

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