



W.P.(MD).Nos.5659 of 2016, 13339 of 2017 and 16874 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 19.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).Nos.5659 of 2016, 13339 of 2017 and 16874 of 2017
and
W.M.P.(MD).Nos.5083, 6246 of 2016,
10397 and 13459 of 2017**

W.P.(MD).No.5659 of 2016:

Raja Aided Middle School,
Vadichipalayam,
Karur District,
Karur 639 114,
Represented by its Secretary & Correspondent,
Dr.M.Jawahar

... Petitioner

Vs.

1.The District Elementary Educational Officer,
Karur District,
Karur.

2.The Assistant Elementary Educational Officer,
Karur District,
Karur.

3.V.Vijayalakshmi,
Secondary Grade Assistant,
Raja Aided Middle School,
Vadichipalayam,
Karur District,
Karur – 639 114.

... Respondents



W.P.(MD).Nos.5659 of 2016, 13339 of 2017 and 16874 of 2017

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned proceedings issued by the first respondent in Na.Ka.No.3143/A1/2015 dated 04.03.2016 and to quash the same.
Mr.G.Sankaran,

For Petitioner : Mr.G.Sankaran,
Senior Counsel,
For F.Deepak.

For R-1 and R-2 : Mr.V.Omprakash,
Government Advocate.

For R-3 : Mr.H.Mohammed Imran,
For M/s.Ajmal Associates.

W.P.(MD).No.13339 of 2017:

Raja Aided Middle School,
Vadichipalayam,
Karur District,
Karur 639 114,
Represented by its Secretary & Correspondent,
Dr.M.Jawahar

... Petitioner

Vs.

- 1.The District Elementary Educational Officer,
Karur District,
Karur.
- 2.The Assistant Elementary Educational Officer,
Karur District,
Karur.



W.P.(MD).Nos.5659 of 2016, 13339 of 2017 and 16874 of 2017

3.V.Vijayalakshmi,
Secondary Grade Assistant,
Raja Aided Middle School,
Vadichipalayam,
Karur District,
Karur – 639 114.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned proceedings issued by the first respondent in Na.Ka.No.3143/A1/2015 dated 03.07.2017 and to quash the same.

For Petitioner : Mr.G.Sankaran,
Senior Counsel,
For F.Deepak.

For R-1 and R-2 : Mr.V.Omprakash,
Government Advocate.

For R-3 : Mr.H.Mohammed Imran,
For M/s.Ajmal Associates.

W.P.(MD).No.16874 of 2017:

Raja Aided Middle School,
Vadichipalayam,
Karur District,
Karur 639 114,
Represented by its Secretary & Correspondent,
Dr.M.Jawahar

... Petitioner

Vs.

1.The Joint Director of Elementary Education (Aided),
O/o. the Directorate of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.



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2.The District Elementary Educational Officer,
Karur District,
Karur.

3.The Assistant Elementary Educational Officer,
Karur District,
Karur.

4.V.Vijayalakshmi,
Secondary Grade Assistant,
Raja Aided Middle School,
Vadichipalayam,
Karur District,
Karur – 639 114.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the first respondent in Na.Ka.No.24036/H4/2017 dated 07.08.2017 confirming the orders passed by the second respondent in Na.Ka.No.3143/A1/2015 dated 21.03.2015 and to quash the same and consequently directing the respondents 1 to 3 to approve the order of punishment passed against this Court.

For Petitioner : Mr.G.Sankaran,
Senior Counsel,
For F.Deepak.

For R-1 to R-3 : Mr.V.Omprakash,
Government Advocate.

For R-4 : Mr.H.Mohammed Imran,
For M/s.Ajmal Associates.



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COMMON ORDER

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The Writ Petition in W.P.(MD)No.5659 of 2016 is filed to quash the impugned order dated 04.03.2016.

2. The Writ Petition is filed by the Management of Raja Aided Middle School, Vadichipalayam, Karur District. The third respondent namely, V.Vijayalakshmi is working as Secondary Grade Teacher in the petitioner School. The contention of the school is that on 08.11.2014 a charge memo was issued for serious discrepancies in the valuation of answer sheet, but the said V.Vijayalakshmi has submitted an evasive reply. In the meanwhile, on 11.12.2014, the AEEO, Karur has made an annual inspection of the school and has made remarks about the said Vijayalakshmi's poor performance. However, the said V.Vijayalakshmi has not corrected herself and has failed to taking classes for the students in the proper manner. Again on 22.07.2015, the DEEO, Karur has made remarks against the said teacher stating that there was no improvement on the part of the teacher. When the school sought for explanation, the said teacher refused to submit the explanation. Thereafter, the school issued show cause notice to the teacher by referring to the lapses committed by her as well as other misconduct like, refusing to receive the letters from the Management and for making representations to the District Collector, Hon'ble Minister by blaming the School Management. The petitioner



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was issued with notice to appear before the School Committee for enquiry and for further action. But the teacher refused to appear before the Committee as well. In such circumstances, the teacher was placed under suspension based on the decision of the School Committee and issued with an order of suspension dated 04.08.2015. Thereafter, the teacher has made false propaganda by inviting public and media in front of the school to make it as a sensational issue. The second respondent made a visit to the petitioner School on 05.08.2015, on the instructions from CEO, Karur for enquiry. When the second respondent was enquiring the matter, the teacher went out of the room and gave interview with media with false allegations during the working hours of the school, in order to tarnish the image of the school. Thereafter, the school forwarded the representation to the Department on 05.08.2015 seeking approval of suspension for the lapses committed by the teacher. She was issued with charge memo dated 12.10.2015 consisting of 9 counts through registered post and the same was returned with an endorsement “refused”. For the purpose of granting subsistence allowance, she has not submitted any letter as required to forward the proposal to the Department, inspite of intimation. Thereafter, the second respondent himself has forwarded the letter to the teacher on 12.10.2015 calling for certificates for the purpose of granting subsistence allowance and the same was not responded by the teacher. Likewise, the



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petitioner School had sent several notices for conducting disciplinary proceedings, but the teacher refused to attend. Having left with no other option, the petitioner school has conducted an exparte enquiry and submitted a proposal of punishment of dismissal from service to the official respondents for getting prior permission. Again, the teacher with a false information went before the media. Finally based on the orders of this Court, without prejudice to the rights of the school as well as teacher, the teacher was reinstated vide order dated 07.08.2017 and she joined duty on 11.08.2017 and continuing in the said service until today and she is attaining superannuation on 20.06.2023 i.e. tomorrow. Based on the existing rules, she is entitled to continue until 30.06.2023.

3. The Writ Petition in W.P.(MD)No.4807 of 2016 is filed by the teacher for reinstatement into service and the said Writ Petition was disposed of vide order dated 04.04.2017 directing the school to reinstate the said teacher and the official respondents directed the school to implement the order in W.P.(MD)No. 4807 of 2016. The school has filed another Writ Petition in W.P.(MD)No.13339 of 2017 challenging the order dated 03.07.2017 and the contention of the school is that the order is under review in Review Petition. No.46 of 2017. At the time of admission in W.P.(MD)No.13339 of 2017, this Court has granted an order of interim stay.



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4. The school has again filed another Writ Petition in W.P.(MD) No.16874 of 2017 challenging the order passed by the official respondents dated 07.08.2017 and 21.03.2015, whereby the official respondents have rejected to approve the punishment to be imposed on the teacher. At the time of admission, this Court has granted an order of interim stay in this Writ Petition as well and also called upon the official respondents to produce the inspection records. The contention in this Writ Petition is that the Joint Director of School Education has not visited the premises and never ever conducted any enquiry, but has passed an order without enquiry and also without appreciating other facts that happened in the case of the teacher.

5. The teacher had filed a counter stating that she was appointed by the erstwhile Secretary namely, R.Muthiyan. After the tenure of said R.Muthiyan, his son Jawahar assumed the post of Secretary and on his assumption of power, he intends to vacate the teacher from the post of Secondary Grade Teacher, so as to fill up the vacancy on extraneous consideration. In order to achieve his intention, he always insisted the teacher to go on voluntary retirement and she refused to adhere to the request. In this regard, the teacher made complaints against the said Jawahar and there was no response. Thereafter, the school has placed her under suspension and when the official respondents refused to grant approval for imposing the punishment, the school has refused to adhere to the



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order, because of the disobedience shown by the school in not granting the subsistence allowance as well, the School has subsequently came under direct payment. The school has passed an order of reinstatement only after the Contempt Petition was filed. Thereafter, the teacher was reinstated and until today, she was serving in the said post. There were several other litigations between the school and the teacher. The school failed to grant any subsistence allowances inspite of the orders from the official respondents and also failed to grant 7th pay commission and all other benefits were declined to the teacher. When the teacher had preferred a complaint before the authorities, there was specific order to pay the same, but the school has refused to pay the same. Therefore, the teacher prayed to dismiss this Writ Petition.

6. Heard Mr.G.Sankaran, the Learned Senior Counsel for Mr.F.Deepak, appearing for the petitioner, Mr.V.Omprakash, learned Government Advocate, for the respondents 1 and 2 and Mr.H.Mohammed Imran, for M/s.Ajmal Associates, learned counsel for the third respondent and perused the records.

7. The first contention of the school is that the charge memo was issued for the non-performance of the teacher, since the same was pointed by the official respondents. The teacher has never submitted any explanation to the memo issued by the school. Infact the official respondents had directed the



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school take action against the teacher. Thereafter, the school had initiated action and issued charge memo to the teacher. The learned counsel appearing for the school relied on the notices issued through registered post and none of the communications were received by the teacher and there is also a postal endorsement as “refused”. When the teacher had refused to receive the notices, the school was left with no other option than to conclude the proceedings exparte. When the school has sought approval from the official respondents, the official respondents had held that notice was not properly served on the teacher. The official respondents have noted that notice was not properly served, hence an exparte order was passed. But the official respondents failed to take note that the teacher had failed to receive notice, rather refused to receive notice, which is evident from the postal endorsement “refused”. On perusing the records, it is seen that the teacher has never received any communication at all. Moreover, the official respondents had directed the school to reinstate the teacher and the official respondents had not stated any reasons for coming to such conclusion. Therefore, this Court is of the considered opinion that notice was served and there is no violation of principles of natural justice.

8. However as far as the punishment is concerned, this Court is of the considered opinion that the punishment is disproportionate. Moreover, based on



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the orders of this Court, the teacher was reinstated in the year 2017 itself and she has been rendering service until 2023. Moreover, the teacher is on the verge of attaining superannuation. At this juncture, if any punishment is imposed, it would be unimplementable punishment. Therefore, this Court is inclined to allow the teacher to serve until 30.06.2023.

9. Now, the question arises who has to pay the salary. As far as the suspension period from 04.08.2015 to 04.12.2015, the same shall be regularized and this Court directing the official respondents to pay the salary that is applicable to the teacher.

10. For the period from 05.12.2015 to 11.08.2017, the teacher had absented herself. Moreover, the teacher had not attended the enquiry and deliberately refused all the notices and not cooperated with the enquiry. But the allegation against the teacher is non-performance. For this allegation the punishment of dismissal from service is disproportionate. Hence, in the interest of justice, this Court is of the considered opinion that the petitioner is entitled to 50% of the salary for the period from 05.12.2015 to 11.08.2017 and the same shall be paid by the official respondents.



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11. From 12.08.2017 to 30.06.2023 the teacher has rendered service and she is entitled to salary and the same shall be paid by the official respondents.

12. The teacher is entitled to service benefits including 7th Pay Commission.

13. The aforesaid directions shall be complied with and the same shall be complied within a period of eight (8) weeks from the date of receipt of a copy of this order.

14. The Writ Petitions are disposed of in above terms. No costs. Consequently, connected miscellaneous petitions are closed.

19.06.2023

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



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To

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- 1.The Joint Director of Elementary Education (Aided),
O/o. the Directorate of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.
- 2.The District Elementary Educational Officer,
Karur District,
Karur.
- 3.The Assistant Elementary Educational Officer,
Karur District,
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S.SRIMATHY, J.

Nsr

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