



W.P.(MD)No.7521 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.7521 of 2016

and

W.M.P(MD)No.6304 of 2016

S.Anthony Michael George

... Petitioner

Vs.

1.The Manager,
RC Schools,
Bishop of Thoothukudi,
Thoothukudi Diocese,
Thoothukudi District.

2. The District Educational Officer,
Cheranmahadevi,
Tirunelveli District.

3. The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, to call for the entire records pertaining to the impugned order passed by the 1st respondent, vide his Ref.No. 2016/57, dated 16.03.2016 and quash the same and consequently direct the 1st



W.P.(MD)No.7521 of 2016

WEB COPY

respondent to reinstate the petitioner in to the service in the cadre of Horticulture Instructor at The Sacred Heart Higher Secondary School, Kavalkinaru, Tirunelveli District.

For Petitioner : Mr.B.Saravanan, Senior Counsel, for
Mr.M.Vinayak

For R-1 : Mr.S.Savari Muthu,
for M/s.Father Xavier Associates.

For R-2 & R-3 : Mr.D.Sadiq Raja,
Additional Government Pleader

ORDER

This writ petition is filed challenging the impugned punishment, order dated 16.03.2016, whereby the petitioner was imposed punishment of Compulsory retirement.

2. The petitioner was working in the 1st respondent Institute. There was an allegation against the petitioner that he misbehaved with the girl students of the institution. The respondents have issued a Show Cause Notice. In the disciplinary proceedings, the respondents had granted an ample opportunity to the petitioner and allowed the petitioner to cross examine the victim. Thereafter, the



W.P.(MD)No.7521 of 2016

WEB COPY

respondent had come to the conclusion that the charge is proved. But the respondent sympathetically considered and had imposed Compulsory punishment rather than imposing dismissal from service. For the same set of facts, criminal case was also initiated, however, the petitioner was acquitted in the criminal proceedings, since the victim has deposed before the criminal Court that she had signed only in the blank paper and the contents are not known to the victim. The victim has also deposed before the criminal Court that, there were some election disputes among the certain groups. Therefore, the victim has stated that she was forced to sign in the blank papers and the same was used. Therefore, the petitioner prays to reconsider the claim of the petitioner.

3. However, the respondents submitted that the enquiry proceeding was conducted as per law and there is no violation of principles of natural justice. The victim was one of the witness and the petitioner has cross examined the victim. In fact, the petitioner has tendered apology before the victim and the victim's mother. Thereafter, taking all facts and circumstances and by taking sympathetic approach, the petitioner was imposed punishment of compulsory retirement from service. Moreover, the evidence in the criminal case should be



W.P.(MD)No.7521 of 2016

WEB COPY

strict evidence, whereas in the disciplinary proceedings, it is a preponderance of probabilities. Therefore, taking into account, the respondents have imposed appropriate punishment, the punishment imposed on the petitioner need not be interfered with. Hence, the respondents prayed to dismiss the writ petition.

4. After hearing rival submissions, this Court is of the considered opinion that, since the petitioner was acquitted subsequent to the imposition of punishment and since the victim has submitted that, she has signed only in the blank paper, the respondent ought to reconsider the case of the petitioner. Therefore, this Court is inclined to allow the prayer to limited extent.

5. Accordingly, the impugned order passed by the 1st respondent, vide his Ref.No.2016/57, dated 16.03.2016, is hereby kept in abeyance. The 1st respondent is directed to reconsider the case of the petitioner in the light of the deposition of the victim before the criminal Court and in the light of the acquittal of the petitioner in the criminal court and pass a fresh order, within a period of 8 weeks from the date of receipt of a copy of the order. If the respondent is not



W.P.(MD)No.7521 of 2016

WEB COPY

passing order within the period of eight weeks then the petitioner, may seek reinstatement into service.

6. With the above said direction and observation, the writ petition is allowed. No costs.

Index : Yes / No
Internet : Yes
ksa

01.03.2023

To

1. The District Educational Officer,
Cheranmahadevi,
Tirunelveli District.
2. The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.



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W.P.(MD)No.7521 of 2016

S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 7521 of 2016**

01.03.2023