



W.P.(MD)No.12198 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.12198 of 2017

and

W.M.P(MD)Nos.9391 & 9392 of 2017

R. Packiyalakshmi

... Petitioner

Vs.

1. The District Elementary Educational Officer,
O/o. the District Elementary Educational Office,
Ramanathapuram.
2. The Additional Assistant Elementary Educational Officer,
O/o.The Additional Assistant Elementary Educational Office,
Kadaladi, Ramanathapuram District.
3. The Secretary,
Ambigapathi Hindu Nadar Middle School,
N.Vellapatti,
Naripaiyur Post, Kadaladi Taluk,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, to call for the records of the impugned Charge



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Memo 12.04.2017 on the file of the 3rd respondent and quash the same as illegal with in the time stipulated by this Court.

For Petitioner : Mr.G.Karthik, for
Mr.S.Rajasekar

For R-1 & R-2 : Mr.D.Sadiq Raja,
Additional Government Pleader

For R-3 : Mr.S.C.Herold Singh

ORDER

This writ petition is filed to quash the charge memo, dated 12.04.2017.

2. Heard Mr.G.Karthik, for Mr.S.Rajasekar, learned counsel appearing for the petitioner and Mr.D.Sadiq Raja, learned Additional Government Pleader, appearing for the respondents 1 & 2 and Mr.S.C.Herold Singh, learned counsel appearing for the 3rd respondent.

3. During the pendency of the writ petition, the petitioner was reinstated on 07.08.2022 and the petitioner has also submitted joining report and she is continuing thereafter.



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4. The petitioner was initially appointed on 04.01.1988 as Secondary Grade Teacher in the 3rd respondent school, which is Private Aided Government School and thereafter, promoted as Headmistress on 05.08.1998 and has rendered 29 years of service.

5. On 12.04.2017, the 3rd respondent has placed the petitioner under suspension. And issued charge memo dated 12.04.2017 and the allegation against the petitioner is that the petitioner has failed to affix her signature in the circular, dated 11.03.2017 and also failed to prepare salary statement and various other allegations. The petitioner submitted a representation dated 08.05.2017 to the 3rd respondent requesting to pay subsistence allowance and also stated that the management had not paid salary from 01.01.2017 onwards. Moreover, requested not to deduct Rs.5943/- which was paid as incentive increment. In the meanwhile, two months have elapsed, hence the management sought permission for further two months extension from the Educational Authorities vide communication dated 10.06.2017. The management did not pay any subsistence allowance, but directed the petitioner to submit explanation to the charge memo vide reminder letter dated 13.06.2017. Again, the petitioner prayed for granting subsistence



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allowance and also prayed to drop the disciplinary proceeding vide letter dated 14.06.2017. Then on 17.06.2017 the petitioner had sought the relevant documents from the management. Since the management without paying subsistence allowance, intended to proceed further, aggrieved over the present writ petition is filed challenging the suspension order. This Court has granted interim stay on 13.06.2017 for the period of two weeks.

6. The contention of the petitioner is that the suspension order was passed with malafide intention and without application of mind. Hence, the petitioner has challenged the suspension order in W.P(MD)No. 8431 of 2017 and the same is pending. In the meanwhile, the 3rd respondent has issued a charge memo and directed the petitioner to submit an explanation. The 3rd respondent sent another letter, dated 13.06.2017 directing the petitioner to submit an explanation regarding the charge memo, dated 12.04.2017 that too within a period of three days and the same was received by the petitioner on 15.06.2017 and to submit an explanation on or before 17.06.2017. The management has not extended the suspension order and the management has not paid the subsistence allowance and hence challenging the said suspension, the present writ petition is



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filed. The further contention of the petitioner is that the charge memo was issued without any evidence and it is a baseless one. Moreover, the 3rd respondent is not a competent authority to issue the said charge memo. Further the management has not furnished the documents which the petitioner has sought for.

7. The further contention of the petitioner is that the said writ petition in W.P(MD)No. 8431 of 2017 challenging the suspension was disposed of with direction to the official respondents to consider and pass orders. Based on the direction of the official respondents, the 3rd respondent has allowed the petitioner to join service on 07.08.2022, however, the petitioner was not paid any salary.

8. The contention of the management is that the petitioner has not submitted any explanation for the charge memo. The management had issued reminder letter as well.

9. The present writ petition is filed challenging the suspension order. When the writ petition was taken up for hearing, it is seen that the suspension was already revoked and the petitioner is reinstated only on 07.08.2022. The petitioner



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was out of service for the period from 12.04.2017 to 07.08.2022 and has not received any salary, subsistence allowance. This Court has granted interim stay for a period of two years, but subsequently the writ was not listed. The Learned Counsel appearing for the petitioner as well as the Management submitted several allegations against each other. It is seen that the petitioner is having four more years of service. In order to put an end to the litigation between the petitioner and the respondents, this Court is passing the following order:

(i) The official respondents shall pay the salary for the period from 01.01.2017 onwards.

(ii) The official respondents shall pay the subsistence allowance for the period of four months i.e. from 12.04.2017 to 12.08.2017.

(iii) The suspension period shall be regularized as duty period.

(iv) The petitioner is entitled to 50% of the salary for the non-employment period from 13.08.2017 to 07.08.2022.

(v) The petitioner has filed two more writ petitions and the same shall be withdrawn, in order to put an end to all the litigations.

(vi) The petitioner shall submit an application for voluntary retirement and the respondents shall be considered the same in accordance to law.



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8. With the above observations, the writ petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
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27.02.2023

To

1. The District Elementary Educational Officer,
O/o. the District Elementary Educational Office,
Ramanathapuram.
2. The Additional Assistant Elementary Educational Officer,
O/o. The Additional Assistant Elementary Educational Office,
Kadaladi,
Ramanathapuram District.



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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No.12198 of 2017**

27.02.2023