



W.P.No.18407 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.06.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.18407 of 2015

Tmt. I.Shakila

...Petitioner

Vs.

1.The District Elementary Education Officer,
Thiruvannamalai.

2.The Manager,
Sultanpet Muslim Aided Primary School,
Thiruvannamalai.

3.The Assistant Elementary Education Officer,
Thiruvannamalai.

...Respondents

Prayer: Writ Petition is filed under Article 226 to issue a writ of certiorarified mandamus, calling for the entire records connected with the impugned order passed by the 2nd respondent vide letter



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No.31/2015, dated 16.06.2015 and quash the same and direct the 2nd respondent to sanction annual increment due to the petitioner from 01.04.2015 and all other monetary benefits.

For Petitioner : Mr. R.D.Ashok Kumar
for Mr. S.N.Ravichandran

For Respondents : M/s. P.Rajarajeswari
1 & 3 Government Advocate

For Respondent 2: No Appearance.

ORDER

Challenging the order passed by the 2nd respondent issuing order of punishment of stoppage of increment for a period of 1 year without cumulative effect, the petitioner is before this Court. The 2nd respondent is a Muslim Aided Educational Institution, against which no appeal would lie and therefore the petitioner has come forward with the present Writ Petition.



2. In order to appreciate the grievance of the petitioner a brief recapitulation of the facts set out in the affidavit is required. The petitioner would submit that she was appointed as a Secondary Grade Teacher in the 2nd respondent School on 01.06.1988 and her appointment was approved with effect from the said date. Her husband Abdul Kareem has joined the 2nd respondent institution on 03.01.1988 as a Secondary Grade Teacher. He was promoted as a Secondary Grade Head master on 01.06.1988 in a retirement vacancy. His appointment as a Head Master was approved on completing his 5 years teaching service on 03.01.1993.

3. The petitioner would submit that after management of the 2nd respondent institution had been transferred from the erstwhile management to the present management, there appears to be a lot of bad blood between the petitioner, her husband and the management. It started with the petitioner's husband being reverted to the Secondary Grade Teacher by order dated 01.02.2003. This order was challenged by her husband in W.P.No.39031 of 2003 and the said order was set



aside by orders of this Court dated 11.01.2010 and the matter was remitted back for fresh enquiry. Subsequently, the Enquiry Officer had held all the charges against her husband to be not proved except with regard to one issue where the Enquiry Officer had partially allowed it.

4. The 2nd respondent however went ahead to revert the petitioner's husband from the post of Headmaster to the post of Secondary Grade Teacher by an order dated 31.03.2011. Ultimately, the petitioner's husband had to move this Court and has filed a contempt petition after which he was appointed as a Headmaster. However, this was followed by 6 memos being issued to him and the 2nd respondent had placed him on suspension which was not revoked till filing of the Writ Petition.

5. The petitioner would submit that she was also not spared. A show cause notice dated 02.03.2015 was issued to her stating that she had not participated in the census taking which she was required to do. To this the petitioner had sent a reply dated 05.03.2015 denying



allegations and stating that she had done her work. The 2nd respondent proceeded to issue two further show cause notices dated 26.03.2015 and 22.04.2015, to which the petitioner had submitted an explanation on 02.04.2015 and 29.04.2015 respectively. Thereafter, without even issuing a charge memo or holding enquiry, the 2nd respondent has passed the impugned order, aggrieved by which the petitioner is before this Court.

6. No counter has been filed by the respondents.

7. The learned Government Advocate appearing for the 1st and 3rd respondents would submit that they have not received any letter from the 2nd respondent for approving the order of punishment.

8. Heard the learned counsels and perused the records.

9. The very order passed by the 2nd respondent clearly shows the



bias, arbitrariness and vindictiveness of the 2nd respondent. The charge against the petitioner originally was that she has not done the census to which she sent a reply stating that she had completed the work. In the second and third show cause notices, the 2nd respondent had developed the charge by stating that the petitioner had delegated the work to some other person and later claimed that the third person who is her husband and that she had used her husband to do census. The petitioner in her explanation clearly stated that her husband who was only taking her in his two wheeler to do the census work. By no stretch of imagination can it be stated that it is delegation of the work.

10. It is also seen that the 2nd respondent has not followed the orders passed by the 1st and 3rd respondents sanctioning the annual increment to the petitioner. This is yet another fact that shows the bias of the 2nd respondent.



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11. Considering the fact that the petitioner's husband has faced several charges it can be safely concluded that this is also one form of a vindictive action taken by the 2nd respondent. That apart, the 2nd respondent has neither held enquiry nor given opportunity to the petitioner to put forward her explanation in person. Therefore, the impugned order which has been passed without following procedure is arbitrary and has to necessarily quashed and is accordingly quashed.

12. In the result, the Writ Petition is allowed as prayed for. The 2nd respondent is directed to sanction annual increment to the petitioner from 01.04.2015 and all other monetary benefits. No costs.

24.06.2024

Index : Yes/No
Internet : Yes/No
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To

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P.T. ASHA, J,



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