



W.P.No.26439 of 2012

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: .03.2024

CORAM:

**THE HONOURABLE MR.JUSTICE J. SATHYA NARAYANA PRASAD**

**W.P.No.26439 of 2012**

K.Datchinamoorthy

... Petitioner

**Vs.**

1. The Principal Secretary  
Department of School Education  
Secretariat  
Fort St.George  
Chennai – 600 009.
2. The Director of School Education  
Directorate of School Education  
College Road  
Chennai – 600 006.
3. The Chief Educational Officer  
Chief Educational Office  
Erode – 638 002
4. The Head Master  
Kamaraj Municipal  
Higher Secondary School  
Erode – 638 003.

... Respondents

**PRAYER :** Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorari, calling for the records pertaining the order made in



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Na.Ka.No.7057/A5/2005 dated 25.08.2006 passed by the third Respondent and the subsequent order made in Mu.Mu.No.35260/C4/E1/2007 dated 11.08.2011 passed by the 2<sup>nd</sup> Respondent and consequential order made in G.O.(2D) No.18, Department of School Education M1, dated 04.06.2012 passed by the first respondent.

For Petitioner : M/s.P.Nagaraju

For R1 to R4 : Mr.T.M.Rajangam  
Government Advocate

### **ORDER**

The case of the petitioner is that he entered the services as Lab Assistant on compassionate ground on account of the death of his father who was working as a Headmaster. Thereafter, he was promoted to the post of Drawing Teacher and have been working in the fourth Respondent school and discharging his duties without any blemish of records to the satisfaction of his superiors during his service. The Technical Teachers Certificate Course (TTC) was conducted from 22.07.2005 to 25.09.2005 in the Respondent's school and he was deputed as Special Teacher in the Teacher Training cCourse, and during the period of Teacher Training Course, it is alleged, he has committed some misconduct. In this respect, he was issued a charge memo dated 29.12.2005 by the third Respondent alleging that he threatened the students and obtained



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signature in the white paper and threatened one Mrs.K.Tamilselvi working as Drawing teacher in the 'A' section of the same school and made attempts to collect the amount from Rs.500/- to Rs.1,500/- for changing question papers and practical examination so as to score high marks through the students namely Gnanasampantham and Shanmugam and collected the amount of Rs.350/- as examination fees, Rs.50/- for issuance of Identity card, Rs.275/- for purchasing notebooks, Rs.40/- for managing the class in total a sum of Rs.715/- from 144 students. He also collected a sum of Rs.1500/- from students namely Arul to give attendance for the absence period.

2. The learned counsel appearing for the petitioner would submit that that memo was issued under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and he submitted a detailed explanation dated 20.01.2006 denying the allegations. But the third Respondent did not come forward to conduct any enquiry proceedings against the petitioner. But the third Respondent issued a show cause notice dated 18.05.2006 as to why stoppage of two increments with cumulative effect not be imposed upon the petitioner in which, the third Respondent came to the conclusion that the charges against the petitioner are proved without any material. The petitioner was not furnished the copy of the basic complaints and on the other hand, the



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third Respondent did not rely upon any document for his findings. Thereafter, the petitioner submitted a detailed explanation dated 05.06.2006 stating that he was not given any reasonable opportunity to prove his innocence and requested not to impose any punishment.

3. The learned Counsel further submitted that the students of Teacher Training Course submitted a letter dated 30.05.2006 to the third Respondent denying the charges of threatening the students and obtained signature in the white paper and demanding the amount from the students and the said Arul and Thirugnanasampandam submitted the letters denying the charges of demanding money levelled against the petitioner and being not satisfied with the explanation of the petitioner, the third Respondent passed a final order dated 25.08.2006 holding that the charges are proved and imposed punishment of stoppage of one increment with cumulative effect under Section 17(a) of Tamil Nadu Civil Services ( Discipline and service) Rules.

4. It is further submitted that the petitioner submitted a representation dated 19.09.2006 to the third Respondent to reconsider the imposition of the punishment in the final order and to request to conduct an enquiry on the alleged charges so as to prove his innocence and thereafter again on



25.10.2006, he made a representation to the third Respondent to reconsider the final order and cancel the punishment imposed upon him. But the third Respondent by order dated 20.11.2006 declined to cancel the punishment imposed upon the petitioner.

5. The learned counsel further submitted that the petitioner preferred an appeal dated 23.08.2007 to the second Respondent challenging the final order passed by the third Respondent on the ground that he was not given reasonable opportunity of being heard and no enquiry was conducted on the alleged charges. Finally, the second respondent passed an order dated 11.08.2011 confirming the order passed by the third respondent on the ground that the charges are proved and was given reasonable opportunities. Thereafter the petitioner preferred a Revision Petition dated 24.10.2011 to the first respondent challenging the order passed by the second respondent as well as the order passed by the third respondent. But the first respondent passed an order dated 04.06.2012 rejecting the revision petition without applying his mind. Aggrieved by the order passed by the first respondent, the petitioner has come forward with the present writ petition.

6. The learned counsel would rely on the discussion of the Hon'ble



Supreme Court in the case of *Kulwanth singh Gill -vs- State of Punjab* in which, it is held that in the garb of stoppage of increment, if it deprives future increment in the scale of pay permanently, it would amount to a major punishment and the impugned order is liable to be quashed. In another judgment, the Hon'ble Supreme Court in the case of *Mohinder Singh -vs- State of Punjab and others* has held that the stoppage of increments with cumulative effect is a major penalty and the same cannot be imposed without an enquiry. Then, in another judgment in the case of *A.G.Mohammed Jaffar -vs-Tamil Nadu Civil Services Corporation Limited*, it is held clear that only stoppage of increment is mentioned as minor punishment and where the stoppage of increment is continued with cumulative effect for a period of two years, it means that two increments earned by the employee was cut off as a measure of penalty. The Respondents ought to have given reasonable opportunity of being heard by conducting enquiry in respect of the misconduct levelled as against the petitioner and the stoppage of increment is a major punishment.

7. The counter affidavit was filed by the second respondent on behalf of other respondents in February 2013. The learned Government Advocate submitted that the petitioner was deputed to the fourth respondent's School as a Special Teacher in connection with conducting of Technical Teacher Certificate



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course from 22.07.2005 to 20.09.2005 and during the course, the petitioner collected money from the students for various purposes such as examination fees, for issuance of Identity card, for purchasing notebooks, for changing question papers etc. The act of the petitioner is in violation of the Tamil Nadu Government Servants Conduct Rules and action was initiated by the third respondent against the petitioner under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and was served with charge memo and his explanation thereon was called for and the same was examined by the third respondent viz., the Chief Educational Officer, Erode, since the explanation submitted by the petitioner was not convincing and acceptable. Therefore, the petitioner was awarded with the punishment of stoppage of increment for one year with cumulative effect and prior to imposition of the punishment, the petitioner was given an opportunity to offer his explanation. The learned Government Advocate would further submit that charge memo was issued under 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Since the said rules do not contemplate a detailed enquiry and the same was not conducted. In view of the above discussion, considering the explanation of the petitioner to the charge memo, the petitioner was awarded with the above punishment, which is proportionate and is in accordance with the rule and there



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is no irregularity in the procedure adopted. The Appeal preferred by the petitioner was also rejected by the second respondent on the ground that considering the welfare of the incumbent, the disciplinary authority has imposed only lesser punishment and it required no interference by the Appellate Authority. The petitioner also preferred a review petition dated 24.10.2011 before the first respondent (viz) the Principal Secretary against the punishment imposed on the petitioner. The Government after careful consideration of the review petition along with the relevant records had come to the conclusion that there is no sufficient reason to interfere with the order passed by the Joint Director (Personnel) and accordingly rejected the review petition. The quantum of punishment awarded to the petitioner is only lesser punishment even though the charge is serious in nature and as the writ petition liable to dismissed.

8. Heard both the counsels and perused the available records.

9. In this case, it is admitted fact that the petitioner was deputed as the Special Teacher in connection with the conducting of Technical Teachers Certificate Course (TTL) from 22.07.2005 to 25.09.2005 in the respondent's School. The allegation against the petitioner is that he had collected money from students for various purposes and action was initiated against the



petitioner under rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The petitioner was served with the charge memo and is submitted his explanation and not being satisfied with the explanation, the third respondent awarded the punishment of stoppage of increment for one year with cumulative effect.

10. It is pertinent to note that that no enquiry has been conducted before imposing the above punishment of stoppage of increment for one year with cumulative effect on the petitioner. The learned counsel appearing for the petitioner relied on the judgments of the hon'ble Supreme Court of India in the cases of *Kulwanth singh Gill -vs- State of Punjab*, *Mohinder Singh -vs- State of Punjab* and *A.G.Mohammed Jaffar -vs- Tamil Nadu Civil Services Corporation Limited* in which it was held that stoppage of increment if it deprives the future increment in the scale of pay permanently, it would amount to a major punishment. Hence the same cannot be imposed without conducting a enquiry. In this case admittedly no enquiry was conducted and the punishment was imposed only on the explanation submitted by the petitioner in response to the charge memo which was issued to the petitioner under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and appeal) Rules.



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11. According to the respondents, the punishment imposed on the petitioner is only a minor punishment under rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and it does not contemplate detailed enquiry before imposing the said punishment. The allegation against the petitioner is serious in nature and being a teacher, he ought not to have indulged in corrupt practices by collecting money from the students for various purposes such as examination fee, for changing question papers etc. Hence the punishment imposed on the petitioner is proportionate to the delinquency committed by him.

12. In view of the above factual matrix of the case, the impugned prayer made in Na.Ka.No.7057/A5/2005 dated 25.08.2006 passed by the third Respondent and the subsequent order made in Mu.Mu.No.35260/C4/E1/2007 dated 11.08.2011 passed by the 2<sup>nd</sup> Respondent and consequential order made in G.O.(2D) No.18, Department of School Education M1, dated 04.06.2012 passed by the first respondent does not warrant any interference by this Court and the same is hereby confirmed.

13. In the result, the writ petition stands dismissed.

**.03.2024**



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Internet : Yes/No

Index: Yes/No

Speaking Order: Yes/No

NCC : Yes / No

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