



W.P. No.8081 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.8081 of 2015 and
M.P.Nos. 1, 2 and 3 of 2015

K.Jayalakshmi

.. Petitioner

Vs.

1. The District Elementary Education Officer
O/o District Elementary Education Officer
Cuddalore..
2. The Assistant Elementary Educational Officer
O/o Assistant Elementary Education Officer
Kammapuram, Cuddalore.
3. The Administrator
Aided Elementary School
Paalakollai, Cuddalore.
4. The Director of Elementary Educational
O/o Director of Elementary Educational
DPI Campus, College Road
Nungambakkam, Chennai.

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,
praying to issue a Writ of Certiorarified Mandamus to call for the records



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pertaining to the impugned order in Ref.No.NA.Ka.No.434/A2/09 dated 19.08.2011 of the 1st Respondent and quash the same and consequently direct the 1st respondent to permit the petitioner to work in the 3rd Respondent school along with all back wages and seniority and other benefits.

For Petitioner : Mr.I.Siddiq for
M/s.Dass Law Associates,
T.Arockia Dass,
K.Aswin

For R1,R2 and R4 : Mr.M.Rajendiran

For R3 : Mr.R.D.Ashok Kumar for
Mr.S.N.Ravichandran

ORDER

The writ petition is filed challenging the order dated 19.08.2011 issued pursuant to the order of termination on the ground of unauthorised absence during the period 02.01.2009 to 24.05.2011.

2. It is submitted by the learned counsel for the respondents as a preliminary objection that the writ petition ought not to be entertained inasmuch as the writ petition is hit by laches since the petitioner has approached this Court 4 years after the impugned order dated 19.08.2011 came to be passed. Further despite several opportunities, the petitioner did not participate in the



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disciplinary proceedings. As a matter of fact, the petitioner was issued with a charge memo dated 20.12.2010 directing them to submit their reply within 7 days from the date of receipt however no explanation was given. Thereafter, on 02.02.2011 a communication about enquiry was issued to the petitioner directing the petitioner to appear on 09.02.2011 at 2 pm however the petitioner did not appear. One more opportunity was granted on 09.05.2011 while stating that the petitioner had not reported to work during the disciplinary proceedings despite being directed to. Thereafter, an enquiry was completed and a report was made finding that the charges have been proved. Further, on 24.05.2011 on the basis of the fact that the charges have been proved and the School Committee passed a resolution to dismiss/ terminate the petitioner from service. and the petitioner was terminated. On 19.08.2011, the petitioner was issued another communication whereby the petitioner was granted another opportunity to submit its explanation against order of dismissal/ termination while also stating that in the absence of the petitioner responding it shall be deemed that he has no explanation to offer.

3. It is submitted by the learned counsel for the Respondent that there was complete non participation of the petitioner commencing with the charge memo and culminating in the impugned order and at no point in time the petitioner



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submitted any explanation to the charges. The affidavit importantly does not appear to seriously rebut the same. It was thus submitted having failed to avail the opportunities it would ill lie in the mouth of the petitioner to question the impugned proceedings.

4. To the contrary, the learned counsel for the petitioner would submit that the impugned order is a result of bias inasmuch as the petitioner had failed to comply with the illegal demand of money of Rs.2,00,000/- for making her permanent. It is submitted that the entire proceedings was vitiated by bias. The allegation of bias in passing the impugned order cannot be sustained inasmuch as it is vague and without any material particulars which is essential to maintain a case of bias.

5. Heard both sides, the petitioner admittedly failed to participate in the impugned proceedings. Further, the petitioner has approached the Court with a delay of almost 4 years, it is trite law that relief under Article 226 of the Constitution of India is only to those who are vigilant and not those who sleep over their rights. The maxim "*Vigilantibus, et non Dormientibus, Jura Subveniunt*" - the law assists who are vigilant, not those who sleep over their right is relevant and has been consistently applied by the Apex Court in a catena



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of cases. Some of them being:

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i) *Delhi Airtech Services (P) Ltd. v. State of U.P.*, reported in (2011) 9 SCC 354.

ii) *Dohil Constructions Co. (P) Ltd. v. Nahar Exports Ltd.*, reported in (2015) 1 SCC 680.

iii) *State of U.P. v. Dayanand Chakrawarty*, reported in (2013) 7 SCC 595.

6. In view thereof, I see no reason to interfere with the impugned proceedings. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

20.06.2024

Speaking (or) Non Speaking Order

Index: Yes/No

Neutral Citation: Yes/No

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MOHAMMED SHAFFIQ, J.

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