



WEB COPY



WA No.1462 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

WA No.1462 of 2022

V.Ayyappan

... Appellant

versus

- 1.The Joint Director of School Education,
(Secondary Education),
Office of the Director of School Education,
DPI Campus,
Chennai-600 006.
- 2.The Chief Educational Officer,
Saidapet,
Chennai- 600 015.
- 3.The District Educational Officer,
Chennai East,
Chennai-600 094.



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4.The Correspondent,
Shree Jethmal Tikamchand Chajed Jain,
Mission Higher Secondary School,
1, Narayan Mudali Street,
Sowcarpet,
Chennai-600 001.

5.The Headmaster,
Shree Jethmal Tikamchand Chajed Jain,
Mission Higher Secondary School,
1, Narayan Mudali Street,
Sowcarpet,
Chennai-600 001.

... Respondents

PRAYER: Writ Appeal filed against the order of the learned Single Judge in WP No.15908 of 2011 dated 16.03.2022.

For the Appellant

:Ms.Adhishree
for Mr.N.Manoharan

For the Respondents

:Mr.UM.Ravichandran
Special Government Pleader
for respondents 1 to 3
Mr.P.M.N.Bhagavath Krishnan
for fourth respondent
No appearance-fifth respondent

JUDGMENT

(Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*)

The Writ Appeal is filed against the order of the learned Single Judge in WP No.15908 of 2011 dated 16.03.2022.



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2. Brief facts of the case:

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2.1. The appellant was initially appointed as Record Clerk on 12.10.1988 in the fourth respondent Management. Thereafter, he was promoted to the post of Junior Assistant. In a meeting held during June, 2007, it was informed by the Management Committee that there was a shortage of Rs.35,000/- which was not accounted properly and the said sum was alleged to have been misappropriated by the appellant. Thereafter, he was issued with a show cause notice dated 03.05.2008 by the respondent Management. On 19.07.2008, an enquiry was held. According to the appellant, the respondent Management forced him to give resignation on 19.07.2008. Thereafter, he made a representation, dated 08.08.2008, to the respondent Management. Since there was no response, the appellant filed WP No.22863 of 2008. This Court, by order, dated 18.04.2009 had allowed the said writ petition with the following observations:

"In view of the above, the writ petition is allowed and the impugned show cause notice dated 03.05.2008 issued by the fourth respondent is quashed and the respondents are directed to not to act upon the resignation letter given by the petitioner dated 19.07.2008. The management of the school is given liberty to



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initiate appropriate proceedings against the petitioner if they are so advised and to proceed in accordance with law."

2.2. The respondent Management again issued show cause notice dated 19.05.2009 alleging the same allegations in the earlier show cause notice dated 03.05.2008. Challenging the same, the appellant filed WP No.10186 of 2009. This Court, by order dated 25.11.2010, disposed of the said writ petition with the following observations:

"The petitioner is directed to appear before the Management Committee for the enquiry to be fixed by the Management Committee and on conducting the enquiry, after giving opportunity to the petitioner to participate and put forward his case, the Management Committee will take a decision in accordance with law within a period of three months from the date of receipt of a copy of this order. The petitioner agrees to co-operate with the proceedings for enquiry. At the same time, if the petitioner is entitled to receive any subsistence allowance or any other monetary benefits from the Government, the Management is directed to forward the same to the 1st respondent who will consider it in accordance with law and grant any benefits allowed in the interregnum period."



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2.3. Thereafter, the appellant made a representation dated 09.01.2011 to grant pay and allowance. The respondent Management conducted enquiry on 22.01.2011. But according to the appellant, due opportunity was not afforded to him to examine witnesses and he was not allowed to effectively defend the allegations levelled against him. The Enquiry Committee submitted its report dated 14.02.2011. The appellant was allowed to submit his further statement of defence. According to the appellant, despite his strong defence, he was terminated from service by the respondent Management on 21.03.2011. Challenging the same, the appellant had filed the instant writ petition. The writ court, by order dated 16.03.2022, dismissed the writ petition. Challenging the said order of the writ court, the appellant has preferred the present intra-court appeal.

3. Learned counsel appearing for the appellant would submit that the respondent management has not provided sufficient opportunity to the appellant to put forward his contention before the enquiry committee and without giving sufficient opportunity, the termination order has been passed by the respondent Management. The learned Single Judge, without



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considering the said contentions raised by the appellant, had dismissed the writ petition. Hence, the order of the writ court is liable to be set aside.

4. Learned counsel for the appellant further submits that similar grounds have been raised in the present writ appeal that opportunity was not given to the appellant to cross-examine the witnesses at the time of enquiry before the Committee. He further submits that the appellant has also made an objection to the first respondent/Joint Director of School Education and the same is still pending and therefore, the order of the learned Single Judge is liable to be set aside.

5. Learned counsel for the respondent Management would submit that serious allegation had been leveled against the appellant and disciplinary proceedings had been initiated. The respondent Management has constituted a Committee to enquire into such allegation made against the appellant and based on the enquiry report, the appellant was terminated from service and a proposal has been sent to the District Education Officer/third respondent for approval, and the same is pending.



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6. Considering the said submission made by the parties, we will not go into the merits of the case. Since the appellant has already made an objection to the Joint Director of School Education/first respondent, who is the appellate authority, the appellant is permitted to send a copy of the said objection to the District Educational Officer/third respondent, within a period of two weeks from the date of receipt of a copy of this judgment. On such objection being made by the appellant, the third respondent is directed to consider the same and take appropriate decision on the proposal submitted by the management to approve the termination of service, in accordance with law, as early as possible, within a period of 12 weeks thereafter.

7. In view of the above, the order dated 16.03.2022 of the writ court is liable to be set aside and it is accordingly set aside. The writ appeal stands disposed of with the above terms. There shall be no order as to costs.

[D.K.K., J.] [K.B., J.]
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Index : Yes/No



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Neutral Citation : Yes/No
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