



Cont.P.No.921 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	27/3/2024
Delivered on	25/4/2024

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

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Arockiamary ... Petitioner

Vs

1. Dr.A.Karuppasamy
The Director of Elementary Education
DPI Campus, College Road
Chennai 600 006.
 2. R. Geetha
The District Elementary Education Officer
Office of the District Elementary Education Officer
Coimbatore.
 3. Mr.M.Ramesh Babu
The Assistant Elementary Education Officer
Office of the Assistant Elementary Education Officer
Coimbatore.
 4. T.Krishnaveni
The Secretary
Kadhimills Primary School
Otterpalayam, Sular
Coimbatore 641 016.
- For petitioner ... Respondent
... Mr.Gautam S. Raman



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for M/s.Raman Associates

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For respondents

...

Mr.S.Rajesh
Government Advocate
for R.R.1 to 3

Mr.Kowsick
for R.4

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ORDER

This Contempt Petition is filed to punish the respondents for disobedience of order of this Court dated 3/4/2017 passed in W.M.P.No.37076 of 2016 in W.P.No.43232 of 2016.

2. The petitioner was working in St.Antony Middle School from 15/6/1989. She was deployed to fourth respondent School as per the Proceeding dated 14/9/2002. When the petitioner was asked to repay the increment amount which were drawn by her, she has filed W.P.No.26795 of 2004 seeking to quash the said proceedings and accordingly, the writ petition was allowed.



from service. However, no orders were passed by the second respondent.

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5. The petitioner was kept under prolonged suspension from 29/6/2015 without payment of any subsistence allowance, thereby, the petitioner has challenged the suspension order dated 29/6/2015 and consequential proceedings dated 30/12/2015 and 25/2/2016. This Court has passed interim order on 29/4/2016 in W.M.P.Nos.14391 and 14392 of 2016 in W.P.No.16653 of 2016 and granted interim stay. Further directed the respondents to pay subsistence allowance to the petitioner within a period of two weeks from the date of receipt of the order. The respondents have paid subsistence allowance of Rs.84,980/- and failed to pay the balance of subsistence allowance.

6. The second respondent DEEO vide proceeding dated 1/12/2016 in Na.Ka.No.4296/A-4/2015 has issued an order deployed the petitioner to Gandhi Aided Primary School, Moolakalipalayam, Coimbatore District stating that the post of petitioner has become surplus in the fourth respondent School. It is further stated in the affidavit that these orders of deployment were issued in spite of grant of interim stay on 29/4/2016 in W.P.No.16653 of 2016 and also in spite of pendency of suspension



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orders dated 29/6/2015.

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7. Accordingly, the petitioner has challenged the order of the second respondent dated 1/12/2016 deploying the petitioner to Gandhi Aided Primary School, Coimbatore District by filing a writ petition in W.P.No.43232 of 2016 and this Court has passed interim order on 3/4/2017 in the said writ petition in W.M.P.No.37076 of 2016.

“In the meanwhile, a complaint was filed by Mr.Paulraj and Mr.Manimaran, grandfather and father of a student by name M.Kanmani, alleging that the petitioner had treated her by abusing their caste name. Thereafter, the fifth respondent issued a show cause notice to the petitioner dated 30/4/2015 and the petitioner submitted her detailed explanation to the third respondent on 4/5/2015 denying all the charges stating that since had already married a person, belonging to ST community and she is living with him happily for 29 years, the question of



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abusing the complainant with their caste name, does not arise. Secondly, it was pleaded in her explanation that the complaint dated 20/4/2015, came to the withdrawn on 22/4/2015. In spite of the withdrawal of the complaint, the petitioner was kept under prolonged suspension from 29/6/2015 without payment of any subsistence allowance, which is violation of Section 22 (3) (b) read with Rule 17 (2) of the Tamil Nadu Recognized Private Schools (Regulation) Act and Rules. That apart, a direction given by this Court in W.P.No.28326 of 2015 dated 10/9/2015 to the respondents to consider the representation was not complied with. Prima facie, I find some merits on the above said submissions, hence, there shall be an order of interim stay until further orders.

It is the further grievance of the petitioner



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that the petitioner was paid with any subsistence allowance. Therefore, the fourth respondent is directed to pay the subsistence allowance to the petitioner within a period of two weeks from the date of receipt of a copy of this order.

In view thereof, the fifth respondent School have reinstated the petitioner. But for the reasons best known to them, the order of stay granted by this Court on 29/4/2016, has not been complied with. Again, an order was passed on 1/12/2016 deploying the petitioner to the sixth respondent school. This Court by order dated 12/12/2016 has granted an order of stay of operation of redeployment order dated 1/12/2016. Therefore, the fifth respondent should have allowed the petitioner to continue in the same School. As the same has not been done, the learned counsel for the fifth respondent is directed to report compliance of



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the order dated 29/4/2016 and also the order dated 12/12/2016 within a week. Call on 10/4/2017 along with W.P.No.16653 of 2016.”

8. It is further stated that the respondents have refused to implement the interim order of this Court, thereby, non compliance of the order dated 3/4/2017 in W.M.P.No.3076 of 2016 is contempt of this Court and therefore, sought to be punished.

9. The petitioner has issued a legal notice dated 28/2/2019 calling upon the respondents to comply with the order of this Court dated 3/4/2017 made in W.M.P.No.37076 of 2016 in W.P.No.43232 of 2016 within a period of four weeks. As there was no response, this contempt petition is filed.

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10. The petitioner has filed common additional counter stating that petitioner has filed a writ petition in W.P.No.16653 of 2016 seeking to issue a writ of certiorarified mandamus to quash the proceeding dated 29/6/2015 in R.C.No.1/2015-2016 and consequential proceedings and this Court has passed interim stay of impugned orders dated 29/4/2016 and



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the same are still pending.

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11. It is submitted by the learned counsel for the petitioner that in spite of interim orders passed by this Court as referred above, respondents proceeded further and issued orders of transfer on 1/2/2016 by which the petitioner was constrained to file another writ petition No.43232 of 2016 seeking to quash the transfer order dated 1/12/2016 and this Court having found prima facie issued interim stay and directed the respondents to reinstate the petitioner back in service immediately and to pay superannuation. However, the said orders were not complied with and petitioner was allowed to remain under suspension for 49 months of which she was paid superannuation only for six months.

12. Heard both sides and perused the materials available on record.

13. This Court while considering interim applications has passed interim stay of transfer order dated 1/12/2016 in Na.Ka.No.4296/A4/2015, this Court has also further directed the respondents to reinstate the petitioner back in service immediately and pay subsistence allowance. Once stay orders have been passed,



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respondents should have either implemented the said orders or could have preferred writ appeal. Admittedly, the respondents have not preferred writ appeal, thereby, they should have obliged the directions of this Court made in W.P.No.43232 of 2016.

14. This Court has stayed transfer order dated 1/3/2016 and directed the respondents to reinstate the petitioner in service immediately that means, the petitioner should have been reinstated in fourth respondent School and paid subsistence allowance for the suspended period. According to the petitioner, respondents have committed contempt by not reinstating the petitioner in fourth respondent School and not paying the subsistence allowance. In respect of subsistence allowance is concerned, respondents have paid some amount towards subsistence allowance, however, admittedly, respondents have not issued any proceeding revoking the suspension order and permitting the petitioner to join fourth respondent School. Therefore, as rightly submitted, this in action of the respondents may amount contempt of Court.

15. However, the petitioner who has filed writ petition questioning



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the transfer orders dated 1/2/2016 by which the petitioner was transferred from fourth respondent School to Gandhi Aided Primary School, Mola Kalipalayam, Coimbatore District, has in fact accepted the transfer orders during the pendency of W.P.No.43232 of 2016 and this petitioner has reported to Gandhi Aided Primary School, 26/7/2019. Later, she has even retired from service. The petitioner herself has reported in the said School on account of change of circumstances as recommendation of the fourth respondent School to dismissal from the service was declined by the DEEO. Therefore, this Court is of the opinion that on account of the petitioner joining the above said School and obliging the order passed by DEEO dated 1/12/2016, at this stage, no orders need be passed. Consequently, instant Contempt Petition is required to be closed as nothing survives in this contempt petition.

16. In the result, Contempt Petition is closed.

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mvs.

Index: Yes/No

Neutral Citation: Yes/No

Dr.D.NAGARJUN,J



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Pre-delivery order in
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