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W.P. No.5758 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P. No.5758 of 2016
and WMP.No.5087 of 2016

M.Gabriel

... Petitioner

Vs

1.The Directorate of Matriculation School

Rep by its Director

DPI Campus, Chennai - 600 006.

2.The Inspector of Matriculation School

Office of Inspector of Matriculation Schools

Egmore, Chennai - 600 008.

3.Doveton Matriculation Higher Secondary School

Rep by its Correspondent

No.12-A, Ritherdon Road, Vepery

Chennai - 600 007.

Presently known as

Doveton ISCE Boys and Girls Higher Secondary School

4.Council for the Indian School Certificate Examinations

Rep by its Chief Executive and Secretary

Pragati House, III Floor, 47-48, Nehru Place

New Delhi - 110 019.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the first respondent to revoke the petitioner's oral termination dated 04.07.2023 and further direct the third respondent to reinstate the petitioner with all service/terminal benefits and pay backwages from 04.07.2013 to till the date of reinstatement.

For Petitioner : Mr.R.Ganesh Kumar

For Respondents : Mr.S.Prabhakaran
Government Advocate for R1 & R2

Mr.Siddharth Bahety of
R2 - No Appearance

ORDER

The petitioner was appointed as a teacher in the third respondent-school on 10.06.2000, and he continued in service till July 2013. On 04.07.2013, the parent of a student studying in Class VII B, an advocate by profession, lodged a complaint to the Principal of the School, against the petitioner for scolding and beating his child in the classroom. On receipt of the complaint, the petitioner was asked to submit his explanation by the school Principal. In pursuance of the same, the petitioner gave a written apology on 04.07.2023. According to the petitioner, the Principal of the school, without any enquiry, sought the



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petitioner's resignation, and he refused to resign. To his shock and surprise, the Principal of the school without considering his request and apology, orally terminated him from service with effect from 04.07.2013, and also made an endorsement in the teacher's attendance as 'resigned'.

2. On 10.08.2013, the petitioner gave a representation to the Correspondent of the school venting his grievance and also requested him to settle his entitlements viz., salary, gratuity amount, leave salary etc., He thereafter appealed to the first respondent vide his representation dated 19.02.2014, to take appropriate action against the management of the third respondent-school.

3. Since no action was taken, he approached this Court in W.P.No.18502 of 2014 seeking a mandamus to the first respondent and the Joint Director, Directorate of Matriculation School, to consider his representation dated 19.02.2014. The said writ petition was withdrawn with liberty to challenge the termination order by way of an appeal.

4. Thereafter, on 18.08.2014, the petitioner preferred an appeal before the second respondent under Section 22A of the Code of Regulations for



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Matriculation Schools. The petitioner also preferred an appeal to the fourth respondent on 28.08.2014. Again on 22.12.2014, the petitioner preferred an appeal to the first respondent under Section 24 of the Tamil Nadu Private Schools Regulation Act, 1973. As no orders were passed in the appeals, the petitioner filed the above writ petition for the aforesaid relief.

5. The third respondent filed a detailed counter stating *inter alia*, that the petitioner left the services of the third respondent-school on 09.07.2013, after receiving all his dues in full. He also stated that the petitioner also received his original certificates and even while in service of the third respondent, he was attending interviews in other schools. According to the third respondent-school, the petitioner was rude and violent with the students and several complaints were received against the petitioner on earlier occasions also. In pursuance of the written complaint dated 04.07.2013, by the father of one of the students of Class VII-B, the petitioner was asked to submit his explanation. The petitioner tendered his apology and fearing that a police complaint would be lodged by the parent of the student, an Advocate by profession, wanted to leave the school by having his accounts settled. The third respondent-school on 09.07.2013, fully settled the petitioner's dues by way of a cheque and the same was also encashed by the petitioner. The respondent further stated that



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the petitioner also got employment in some other school but only to harass the school-management, he filed the present writ petition. The respondent, therefore prayed for the dismissal of the writ petition.

6. The learned counsel for the petitioner submitted that the petitioner was orally terminated on 04.07.2013, without any enquiry and so the same deserved to be set aside. The learned counsel for the respondent on the other hand submitted that the contention of the counsel for the petitioner that the petitioner was orally terminated was a misleading statement as it was the petitioner who voluntarily resigned from service by receiving all his terminal benefits and his original certificates from the respondent-school. The learned counsel for the respondent-school further submitted that there was no merit in the writ petition and the same deserved to be dismissed.

7. Heard both the counsels and perused the materials placed before the Court. Indisputably the petitioner was working as a teacher in the third respondent-school for thirteen years. While so, there was a complaint by the father of one of the students studying in Class-VII that his child was ill-treated by the petitioner. Based on the complaint, the Principal of the school directed the petitioner to submit his explanation and apology for his conduct. According



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to the petitioner, on receipt of the explanation, the Principal of the school asked him to resign and on his refusal, the Principal orally terminated him with effect from 04.07.2023, and also made an endorsement in the teacher's attendance that he had resigned. The third respondent contends that the petitioner was never terminated by the school but had voluntarily resigned from the school fearing action against him for ill-treating the student.

8. In my view, the question whether the petitioner was orally terminated or he voluntarily resigned are disputed question of facts, and it is trite that such disputed questions will not be tested in Article 226 proceedings. It is seen that the petitioner has preferred an appeal before the first respondent, and the same is pending. That this appeal is still pending is confirmed by the learned Government Pleader. I am therefore of the view that as the writ petition involves disputed question of facts, it will be appropriate to direct the first respondent to dispose of the petitioner's appeal filed under Section 22-A of the Code of Regulation of Matriculation Schools, within a period of four weeks from the date of receipt of a copy of this order, on merits and in accordance with law.



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9. With the above directions, this writ petition is accordingly disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

29.10.2024

Index : Yes / No
Neutral Citation : Yes / No
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N.MALA, J.

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