



W.P.(MD)No.191 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.04.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.191 of 2024

B.Arunkumar

.. Petitioner

Vs.

1. The Director of Elementary Education,
O/o. the Director of Elementary Education,
DPI Campus,
College Road,
Chennai - 600 006.

2. The District Educational Officer (Elementary),
O/o. the District Educational Officer (Elementary),
Ottanchathiram - 624 619,
Dindigul District.

3. Radha Rani. S,
The Headmistress,
Panchayat Union
Middle School,
Renganathapuram,
Vedasandur Block,
Dindigul District -624 711.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of of Mandamus, directing the respondent No.2 to withhold the pensionary benefits to the respondent No.3, by not allowing the respondent



W.P.(MD)No.191 of 2024

No.3 to retire on voluntary retirement scheme (VRS) by considering the petitioner's representations dated 15.10.2023 and 17.10.2023 within the time stipulated by this Court.

For Petitioner : Mr.S.Louis

For Respondents : Mr.T.Amjadkhan
Government Advocate for R1 and R2

: Mr.T.Antony Arul Raj for R3

ORDER

The petitioner filed this writ petition seeking for issuance of a Writ of Mandamus, to direct the respondent No.2 to withhold the pensionary benefits to the respondent No.3, by not allowing the respondent No.3 to retire on the voluntary retirement scheme (VRS) by considering the petitioner's representations dated 15.10.2023 and 17.10.2023 within the time stipulated by this Court.

2. Heard Mr.S.Louis, learned counsel appearing for the petitioner, Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents 1 and 2 and Mr.T.Antony Arul Raj, learned counsel appearing for the respondent No.3.



W.P.(MD)No.191 of 2024

WEB COPY

3. By consent of both parties, this writ petition is taken up for final hearing at the admission stage itself.

4. The petitioner was appointed as a Secondary Grade Teacher on 10.01.1991 and he has been serving as the BEO in Vedasundur Block since 30.11.2018. Some teachers including the third respondent have given a complaint against the petitioner for sexual harassment and for which the petitioner was placed under suspension by the first respondent on 07.10.2021. In the Internal Complaints Committee, an enquiry has been initiated and in which report has been given that the complaint against the petitioner was not proved.

5. After the report was furnished to the petitioner, he gave a representation on 06.06.2022 to the first respondent to revoke his suspension and the same has been revoked subsequently. Since no action was taken on his representation, the petitioner has filed a writ petition in W.P(MD)No.11716 of 2022 for getting his suspension revoked in view of the report of the Internal Complaints Committee.

6. Even after the Internal Complaints Committee report dated



W.P.(MD)No.191 of 2024

WEB COPY

25.05.2022 was filed, the petitioner was issued with a charge memo dated 17.06.2022 to appear for enquiry. The petitioner has filed a separate writ petition in W.P(MD)No.13011 of 2022 challenging the said disciplinary action initiated against him. The petitioner has also given a representation dated 15.10.2023 to the respondents 1 and 2 and all the authorities concerned to take necessary disciplinary action against all those teachers, who had preferred a false complaint against him under Section 14 of the Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013 and not to allow pensionary benefits to them.

7. The petitioner had given another representation dated 17.10.2023 to the second respondent to take action against the third respondent for having given a false complaint. The petitioner has filed a private complaint before the Judicial Magistrate under Section 200 Cr.P.C and the same is still pending. The third respondent has preferred to go on voluntary retirement. However, she is liable to face the action initiated by the second respondent in pursuant to the representation given by the petitioner. Since no action has been taken against the third respondent, the petitioner has filed this writ petition seeking a direction to the second respondent to withhold the pensionary benefits of the third respondent and not allowing her to go on voluntary retirement.



W.P.(MD)No.191 of 2024

WEB COPY

8. Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents 1 and 2 submitted that the private complaint given by the petitioner before the Judicial Magistrate got dismissed and the petitioner had filed a criminal revision challenging the same. The same was not revealed by him. As per Rule 9 (1) of the Tamilnadu Pension Rules, 1978, no judicial proceedings or departmental enquiry was pending against the third respondent as on the date of the retirement and hence, no action has been taken as requested by the petitioner. The petitioner has got no *locus standi* to seek a stoppage of pensionary benefits against the third respondent. Hence, the criminal complaint has been dismissed.

9. Mr.T.Antony Arulraj, learned counsel for the third respondent submitted that when the petitioner was working as Block Educational Officer, he conducted inspection during the COVID Pandemic period. During that course, he committed sexual assault on the third respondent. Consequently, she had given a complaint against the writ petitioner to the District Educational Officer, Vendasandur. Since the petitioner came to know that some 4 teachers also had given similar complaints against the petitioner, the Committee was constituted for enquiry against the writ petitioner. But the



W.P.(MD)No.191 of 2024

petitioner has not been served with the copy of the report of the Committee.

The third respondent rendered 34 years of service and due to her personal inconvenience, she preferred to go on voluntary retirement and the same was accepted. However, the petitioner objected and on his objection, the third respondent was called upon to submit her explanation and the third respondent has submitted a detailed explanation on 17.10.2023 and thereafter, she was allowed to go on Voluntary Retirement vide order of the Headmistress dated 20.12.2023. The petitioner taking advantage of the report filed by the Internal Complaints Committee dated 25.05.2022, has filed this writ petition. The Committee has stated in the report that there was no sufficient evidence and the complaint was a false one.

10. The whole claim made by the petitioner in this petition is based on the report of the Internal Complaints Committee which comprised of three members out of five members from Gender Sensitization Internal Complaints Committee. It appears that the Internal Complaints Committee have recorded some reasons for not believing the *prima facie* nature of the complaints placed before them. It is stated in the report that the electronic records like cellphone messages, audio and video or social media materials were not produced to make out a *prima facie* case. The report does not mention anything about the



W.P.(MD)No.191 of 2024

statement of the complainants. It is not even known whether the statements of the complainants have been obtained by the Committee during enquiry. Even for some of the complaints which did not state anything with regard to the electronic transaction, the Committee expected electronic materials.

11. It is difficult to understand that even for the allegations that the petitioner had caused sexual harassment to the complainant by making sexually coloured remarks, the Internal Complaints Committee has expected the complainant to produce the video, audio and photo and any social media records. In any case, the Internal Complaints Committee did not arrive at a conclusion that the complaint itself is false one and it did not make any recommendation to initiate any action against the complainants by alleging that the complaint was a malicious one.

12. In this regard, it is relevant to refer Section 14 of the Sexual Harassment of Women at Workplace (Prevention , Prohibition and Redressal) Act, 2013. Section 14 of the Act is extracted as below:

"14. Punishment for false or malicious complaint and false evidence:-

(1) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that the allegation



W.P.(MD)No.191 of 2024

against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or the District Officer, as the case may be, to take action against the woman or the person who has made the complaint under sub-section (1) or sub-section (2) of section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed:

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section:

Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed."

13. In the instant case, the Internal Complaints Committee has come out with a report. The said report does not state that the complaint given by the



W.P.(MD)No.191 of 2024

complainant is a malicious one and it does not recommend to initiate any action against the complainants. The above provision further observes that a mere inability to substantiate the complaint or provide adequate proof could not attract action against the complainant. The above parameters is squarely applicable to the facts placed in this case as well and hence the action of the petitioner that the complaint is malicious or that the complainants have given false complaints, cannot be accepted. For the same reasons, no direction can be issued to the respondents 1 to 5 to consider the representation of the petitioner and initiate action against the complainants. Hence, this petition is liable to be dismissed.

14. In the result, this writ petition is **dismissed**. No Costs.

03.04.2024

Index : Yes/No

NCC: Yes/No

PJL

To

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W.P.(MD)No.191 of 2024

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W.P.(MD)No.191 of 2024

R.N.MANJULA, J.

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W.P.(MD)No.191 of 2024

03.04.2024