



W.P.(MD)No.2420 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.2420 of 2022
and
W.M.P.(MD)Nos.2096 and 2098 of 2022

M.Senthamil Selvan

... Petitioner

versus

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat,
Chennai.
2. The Commissioner of School Education,
O/o. Commissioner of School Education,
DPI Compound,
College Road,
Chennai – 6.
3. The Joint Director of School Education (Personal)
O/o. Joint Director of School Education,
DPI Compound,
College Road,
Chennai – 6.



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4. The Chief Educational Officer,
O/o. The Chief Educational Officer,
Sivagangai District.

5. The Additional Chief Educational Officer,
O/o. The Chief Educational Officer,
Thallakulam,
Madurai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records relating to the impugned order passed by the 3rd respondent in his proceedings in ந.க.எண்.14339-அ3-இ3.2016 dated 10.05.2018 and the consequential impugned order passed by the 3rd respondent in his proceedings in அ.தி.மு.எண்.0430609-அ3-இ3-20 dated 23.11.2020 and quash the same as illegal.

For Petitioner : Mr.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr.K.Balasubramani,
Special Government Pleader

ORDER

The petitioner is working as Desk Superintendent in the School Education Department at Madurai. When he was working in the Audit Wing, he is said to have audited in five Aided Schools in the year 2016, for



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which, a disciplinary proceedings was initiated as against the petitioner for the following three charges.

- (i) that he was unauthorizedly absent for a period of 12 days;
- (ii) that he has conducted a audit meeting without permission; and
- (iii) that he has not submitted the audit report in time.

The Enquiry Officer found that the charge Nos.1 and 3 are not proved, however, he has filed a proved minute for the charge No.2 that he has conducted a audit meeting without prior permission from the higher officials. Though the charge No.3 is not proved, the 3rd respondent, namely, the disciplinary authority, vide his proceedings in ந.க.எண்.14339-அ3-இ 3.2016 dated 10.05.2018 has taken a different view and imposed a punishment of stoppage of increment for a period of two years without cumulative effect for the charge Nos.2 and 3. According to the petitioner, he obtained prior permission to conduct audit proceedings. However, at the time of enquiry, the petitioner was posted at Chennai and therefore, he was not in a position to produce the relevant document before the Enquiry Officer. Hence, he submitted a detailed representation to the 3rd respondent requesting him to give one more opportunity to prove his case. However, the 3rd respondent, by his proceedings in அ.தி.மு.எண்.0430609-அ3-இ3-20



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dated 23.11.2020, rejected the request of the petitioner. As against the order of punishment dated 10.05.2018, the petitioner is having an appeal remedy, However, he has filed this writ petition that the enquiry has been conducted in a hurried manner, without providing sufficient opportunity to him.

2. The learned counsel appearing for the petitioner submits that at the time of enquiry, the petitioner was posted at Chennai and he was not provided sufficient opportunity to place the document with regard to the permission which was obtained for the second charge. He further submits that the third charge is found to be not proved by the Enquiry Officer, however, the 3rd respondent has taken a different view and has imposed a punishment of stoppage of increment for a period of two years without cumulative effect for the third charge.

3. The learned Special Government Pleader submits that as against the order of punishment, the petitioner is having an appeal remedy before the second respondent. However, the petitioner, without invoking the same, has straight away filed this writ petition.



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4. This Court considered the rival submissions made.

5. This writ petition is filed as against the order of punishment imposed by the the 3rd respondent vide his proceedings in ந.க.எண்.14339-அ3-இ3.2016 dated 10.05.2018 As rightly pointed out by the learned Special Government Pleader, the petitioner is having an appeal remedy before the second respondent as against the order of punishment. However, this Court, by order dated 04.02.2022, entertained this writ petition and also ordered notice to the second respondent. Since this Court has already entertained this writ petition, this Court is inclined to proceed on the punishment imposed as against the petitioner.

6. The petitioner was issued with a charge memo for three charges, viz., (i) that he was unauthorizedly absent for a period of 12 days, (ii) that he has conducted audit meeting without permission and (iii) that he has not submitted the audit report in time. The Enquiry Officer has found that the charge Nos.1 and 3 are not proved. However, the 3rd respondent, namely, the disciplinary authority has taken a different view from the view of the Enquiry Officer for the charge No.3 and also for the charge No.2, has



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imposed the punishment of stoppage of increment for a period of two years without cumulative effect.

7. This Court verified with the learned Special Government Pleader as to the guidelines if any, to the Audit section for obtaining prior permission from the higher officials before conducting an audit.

8. It appears that the Department has not framed any guidelines, the manner in which the audit has to be conducted. In the absence of any specific guidelines or requirements mandating the Audit Officer to obtain prior permission, this Court is of the view that the punishment imposed by the 3rd respondent is not proper.

9. Further, the petitioner is also punished for the third charge that he has failed to file his report. The Enquiry Officer found that the report has been filed. But, the 3rd respondent has not assigned any reasons for taking a different view from the view of the Enquiry Officer. Therefore this Court is inclined to allow this writ petition.



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10. Accordingly, this writ petition is allowed and the impugned order of punishment passed by the 3rd respondent in his proceedings in ந.க.எண்.14339-அ3-இ3.2016 dated 10.05.2018 is hereby set aside. No costs. Consequently, connected miscellaneous petitions are closed.

20.11.2024

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Index : Yes / No.

Internet: Yes / No.

NCC : Yes / No.

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