



W.P.(MD)No.6066 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.6066 of 2023 &
W.M.P.(MD)Nos.5728 & 5730 of 2023

S.Sekkilar
Upgrade Superintendent
District Educational Office (Elementary)
Tenkasi, Tenkasi District.

... Petitioner

VS.

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George, Chennai - 9.
- 2.The Commissioner / Director of School Education,
College Road, Chennai - 6.
- 3.The Joint Director of School Education (Personnel),
College Road, Chennai - 6.
- 4.The Chief Educational Officer,
Tirunelveli District at Tirunelveli.
- 5.The District Educational Officer,
Cheranmahadevi, Tirunelveli District.

... Respondents



W.P.(MD)No.6066 of 2023

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the impugned punishment of stoppage of two increments without cumulative effect imposed by the first respondent State Government vide G.O. (1D)No.260, School Education (PaKa1(2)) Department, dated 14.10.2022 and quash the same.

For Petitioner : Mr.S.Xavier Rani

For Respondents : Mr.K.Selva Ganesan
Additional Government Pleader

ORDER

Heard Mr.S.Xavier Rani, learned counsel appearing for the petitioner and Mr.K.Selva Ganesan, learned Additional Government Pleader appearing for the respondents.

2. The petitioner has filed this petition seeking to quash the impugned proceedings of the first respondent in G.O.(1D)No.260, School Education (PaKa1(2)) Department, dated 14.10.2022.



W.P.(MD)No.6066 of 2023

WEB COPY

3. The petitioner is aggrieved due to the impugned order wherein he was punished with stoppage of increments for two years without cumulative effect.

4. The petitioner was appointed as a Junior Assistant on 08.01.1996 at Government Boys Higher Secondary School, Puliangudi, Tirunelveli District and after promotion, he is now working as a Upgrade Superintendent in the fifth respondent office. While so, the petitioner was issued with charges stating that he had been in active collusion with the School Management of Concordia Higher Secondary School, Vallioor and supported for getting approval from the second respondent for three fresh appointments.

5. Mr.S.Xavier Rajini, learned counsel appearing for the petitioner submitted that the petitioner is not the approving authority and it is only the second respondent who can sign the papers.



W.P.(MD)No.6066 of 2023

6. Mr.K.Selva Ganesan, learned Additional Government Pleader appearing for the respondents submitted that the above said School does not fall under the control of the Management Committee in view of certain issues and it was under the direct control of the second respondent. In such case, approval for appointment / release of funds ought to be proceeded after getting approval from the Government. However, due to the active role played by the petitioner, the School managed to get approval from the second respondent fraudulently.

7. Another writ petition filed by the then Personal Assistant to the District Educational Officer, Cheranmahadevi in W.P.(MD)No.12182 of 2024 with regard to the same issue has already been heard by this Court on 11.06.2024, wherein, the following order is passed.

"8. Curiously, no action has been initiated against the second respondent who actually granted approval of appointment and the petitioner was issued with charge memo and kept under suspension at the verge of his retirement. Ultimately, on the conclusion of the departmental proceedings, the petitioner was given with a punishment order of recovery of Rs.36,000/- at the rate of Rs. 1,000/- per month from his service pension for three years. The respondents



WEB COPY

Authorities ought to have taken action against the petitioner, if he is capable of getting such orders from the second respondent, during his service period itself or atleast immediately after those appointment orders were passed. For the approved posts, Government grants have been released by the second respondent periodically. So, it should be well within the knowledge of the second respondent that such approval should not have been given without the consent of the first respondent. Since the petitioner is not the person who can pass any enforceable order, but, ultimately, the authority who can issue orders is the second respondent and despite so, the second respondent has not been given with any charges, the whole exercise of disciplinary proceedings appears to be biased. The element of patent disparity and partiality in the above proceedings would frustrate and vitiate the entire proceedings.

9. In view of the above stated reasons, the writ petition is allowed and the impugned order of the first respondent in G.O.(1D)No.11, dated 27.01.2023 is quashed. The respondents are directed to refund the amount of recovery so far made in view of the punishment is ordered to be refunded to the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed."

8. The issue on hand and the issue dealt with in the aforesaid writ petition is one and the same. In the instant case also, the petitioner is not the signing authority and he cannot pass any enforceable orders. Further, it is learnt that no action has been taken against the second



W.P.(MD)No.6066 of 2023

respondent, who actually approved the fresh appointments in the School.

In such case, the petitioner is also entitled to the same relief given to the petitioner in the above writ petition and the impugned order is liable to be set aside.

9. In view of the above observations, the writ petition is **allowed** and the impugned order of the first respondent in G.O.(1D)No. 260, School Education (PaKa1(2)) Department, dated 14.10.2022 is quashed. No costs. Consequently, connected Miscellaneous Petitions are closed.

26.06.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

mbi



W.P.(MD)No.6066 of 2023

WEB COPY

To

Secretary,

Department of School Education,
Fort St.George, Chennai - 9.

2.The Commissioner / Director of School Education,
College Road, Chennai - 6.

3.The Joint Director of School Education (Personnel),
College Road, Chennai - 6.

4.The Chief Educational Officer,
Tirunelveli District at Tirunelveli.

5.The District Educational Officer,
Cheranmahadevi, Tirunelveli District.



WEB COPY



W.P.(MD)No.6066 of 2023

R.N.MANJULA, J.

mbi

W.P.(MD)No.6066 of 2023

26.06.2024