



W.P.(MD)No.7279 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 03.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.7279 of 2022

and W.M.P. (MD) Nos.5534 & 5535 of 2022

G.Jothi Sundari

: Petitioner

Vs.

1. The Director of Elementary Education,
Office of the Elementary Education,
College Road, Chennai 6.
 - 2.The District Elementary Educational Officer,
Srivilliputhur Taluk, Virudhunagar District.
 3. The Assistant Elementary Educational Officer,
Rajapalayam Taluk, Virudhunagar District.
 4. Annai Indira Gandhi Memorial Primary School,
Represented by its Correspondent / Secretary,
Rajapalayam.
 5. Jothi Primary School,
Represented by its Secretary, R.Reddiapatti 626 136,
Rajapalayam (Via), Virudhunagar District.
- : Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the



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records of the second respondent culminating in the order dated 28.08.2008 made in Na.Ka.No.4789/A3/2008 and quash the same and consequently restore the petitioners service in the fifth respondent school as Headmistress and regularize the petitioners service with all attendant service benefits.

For Petitioner : Ms.G.Thilagavathi, Senior Counsel
for Mr.B.Sivaraman

For Respondents : Mr.J.K.Jeyaseelan
Government Advocate for R1 to R3
Mr.S.Kadarkarai for R5

ORDER

This writ petition has been filed seeking a writ of Certiorarified Mandamus to call for records pertaining to the impugned order passed by the second respondent in Na.Ka.No.4789/A3/2008, dated 28.08.2008 and quash the same and to direct the respondents to restore the petitioner's service in the fifth respondent School as Headmistress and regularise her service with all attendant service benefits.

2. The case of the petitioner is that she has been initially appointed as Middle Grade Teacher at the fourth respondent School on



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08.11.1990 and promoted to the post of Headmistress as per the proposals submitted by the respondents 1 to 3 herein vide G.O. (1D) No. 149, Educational Science and Technology (P1) Department, dated 07.09.1994. She continued as the Headmistress in the fourth respondent School. During the year 2003, the teachers of the aided school of Rajapalayam availed loans through the Rajapalayam Circle Aided Private School Teachers and Staff Co-operative Lending Society.

3. It is the further case of the petitioner that the teachers who had employed in the aided schools were required to get endorsement by the authorised representative of the respective school for availing loan. In this regard, some loan applications were certified from the School where the petitioner was working as the Headmistress. While so, due to default in repayment of the loan by the teachers and after conducting an investigation, a criminal case was registered in C.C.No.131 of 2009 on the file of the learned II Judicial Magistrate, Virudhunagar, wherein the petitioner was also implicated. In these circumstances, the petitioner was placed under suspension by the order dated 28.08.2008 passed by the second respondent in Na.Ka.No.4789/A3/2008 under Rule 17E of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Challenging



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the same, the petitioner has come forward with the present writ petition.

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4. The learned Senior Counsel appearing for the petitioner submitted that the petitioner has been acquitted by the criminal Court by order dated 11.09.2018. The petitioner made a series of representations dated 24.09.2019, 30.03.2019, 19.06.2019 and 12.02.2020 to the respondents to restore her service in the fifth respondent School as Headmistress and to regularise her service with all attendant service benefits. Despite that there was no action taken by the respondents to reinstate the petitioner.

5. The learned Senior Counsel further submitted that the proceedings had also issued by the first respondent vide Na.Ka.No. 7337/F2/2022 dated 27.05.2022 wherein it is stated that the suspension order of the petitioner may be revoked. Thereafter, the petitioner had attained the age of superannuation on 31.05.2022. It is the contention of the learned Senior Counsel that if the respondents have considered the representations and taken action, in time the petitioner might have been reinstated after the acquittal by the Criminal Court on 11.09.2018 itself. However, due to non-consideration of the representations submitted by



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the petitioner, she is put to great prejudice and hardship.

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6. The learned Government Advocate appearing for the respondents 1 to 3 submitted that the school where the petitioner was serving as a Headmistress was permanently closed and since there was no vacancy in the fifth respondent school to accommodate the petitioner, the representations of the petitioner could not be considered by the respondents 1 to 3. However, subsequently, the first respondent had issued the proceedings on 27.05.2022 to reinstate the petitioner in the eligible vacant post in any other aided school.

7. Heard Ms.G.Thilakavathi, the learned Senior Counsel for the petitioner, Mr.J.K.Jeyaseelan, the learned Government Advocate and Mr.S.Kadarkarai, the learned counsel for the fifth respondent and perused the material available on record.

8. Admittedly, the petitioner has got acquittal in the criminal case in C.C.No. 131 of 2009 on the file of the learned II Judicial Magistrate, Virudhunagar. Moreover, there was an inordinate delay of nearly four years on the part of the respondents in considering the



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representations submitted by the petitioner right from the date of acquittal in the criminal cases that is on 11.09.2018. If the respondents have acted on time, the petitioner would have been reinstated in the service with all monetary benefits much earlier.

9. In view of the above, this Court, after taking note of the aforesaid facts and circumstances of the case, the proceedings in Na.Ka.No.4789/A3/2008 dated 28.08.2008 passed by the second respondent is liable to be quashed and the same is hereby quashed. Taking into consideration that the petitioner being a senior citizen, this Court is inclined to issue the following directions:-

(i) In view of the proceedings issued by the first respondent in Na.Ka.No. 7337/F2/2022 dated 27.05.2022, the suspension of the petitioner has to be revoked. The second respondent is directed to revoke the suspension order of the petitioner dated 28.08.2008.

(ii) The second respondent is directed to regularise the service of the petitioner from the date of suspension i.e.,



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28.08.2008;

(ii) The second respondent is directed to settle all the attendant service benefits to the petitioner within a period of four months from the date of receipt of a copy of this order.

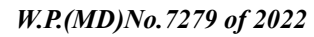
10. In the result, the writ petition stands disposed of with the above observation and directions. Consequently, the connected miscellaneous petitions are closed. No costs.

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Index : Yes / No

Internet : Yes / No

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This matter is listed today under the caption 'for being mentioned' at the instance of the learned Senior Counsel for the petitioner.

2. The learned Senior Counsel for the petitioner submitted that since the first respondent has issued the proceedings vide Na.Ka.No. 7337/F2/2022 dated 27.05.2022 stating that the suspension of the petitioner may be revoked, the suspension of the petitioner is required to be revoked.

3. Considering the submission made by the learned Senior Counsel for the petitioner, Registry is directed to modify the paragraph No.9 of the order as stated below:-

“(i) In view of the proceedings issued by the first respondent in Na.Ka.No. 7337/F2/2022 dated 27.05.2022, the suspension of the petitioner has to be revoked. The second



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respondent is directed to revoke the suspension order of the petitioner dated 28.08.2008.

(ii) The second respondent is directed to regularise the service of the petitioner from the date of suspension i.e., 28.08.2008;

(iii) The second respondent is directed to settle all the attendant service benefits to the petitioner within a period of four months from the date of receipt of a copy of this order.”

4. Registry is directed to make necessary correction and issue a fresh order copy to the concerned parties forthwith.

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