



W.P.(MD)No.11667 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2024

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CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.11667 of 2021

D.Viswanathan

...Petitioner

-Vs-

1.The Joint Director,
O/o.Joint Director,
School Educational Department,
College Road, Chennai.

2.The Chief Educational Officer,
O/o.The Chief Educational Officer,
Ramanathapuram.

...Respondents

PRAYER:Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to consider the suspension period of the petitioner i.e., 10.09.2019 to 03.02.2021 as duty period and provide all the service and monetary benefits by considering the petitioner's representation dated 01.06.2021 within the time period stipulated by this Court.

For Petitioner : Mr.T.Thirumurugan
For Respondent : Mr.M.Sarangan
Additional Government Pleader

ORDER

This writ petition has been filed to direct the respondents to consider the suspension period of the petitioner i.e., 10.09.2019 to 03.02.2021 as duty



period and provide all the service and monetary benefits by considering the petitioner's representation dated 01.06.2021 within the time period stipulated by this Court.

2.Heard Mr.T.Thirumurugan, learned counsel for the petitioner and Mr.M.Sarangan, learned Additional Government Pleader for the respondents.

3.The petitioner is working as a Drawing Teacher in the Government Higher Secondary School, Kadaladi, Ramanathapuram District. A criminal case came to be registered against the petitioner on 02.09.2019 in Crime No.101 of 2019 under Sections 341, 294(b) and 506(i) IPC r/w Section 4 of the Women Harassment Act at Kadaladi Police Station. In view of the same, the petitioner was placed under suspension on 10.09.2019 by the second respondent. Since the same was not revoked, even after a period of 2 ½ years, the petitioner has filed a writ petition in W.P.(MD)No.4346 of 2020 and this Court by an order dated 02.03.2020 granted an order of interim stay of operation of the suspension order.

4.Despite the grant of stay by this Court, the second respondent did not reinstate the petitioner into service. Hence, the petitioner caused contempt notice, following which the contempt petition in Cont.P.(MD)No.803 of 2023 came to be filed by the petitioner before this Court. Pursuant to the same, on



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29.01.2021, the second respondent had passed an order of revocation of the suspension and reinstated the petitioner into service on 03.02.2021.

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5.In the meanwhile, during the period of suspension, the petitioner was visited with a charge memo by the second respondent dated 03.01.2020. Hence, the petitioner submitted a representation dated 25.08.2021 requiring the respondents to furnish the complete documents relating to the charge memo issued as against him. However, the said documents were not furnished by the respondents.

6.In the interregnum, the case in Crime No.101 of 2019 at Kadaladi Police Station registered against the petitioner culminated in filing a charge sheet in C.C.No.376 of 2019 on the file of the District Munsif cum Judicial Magistrate Court, Kadaladi, in which the petitioner came to be acquitted by order dated 13.07.2023. That apart, the disciplinary proceedings, which has been initiated by issuance of charge memo dated 03.01.2020, is vitiated by laches. Hence, the petitioner has filed this writ petition seeking to consider his suspension period as duty period.

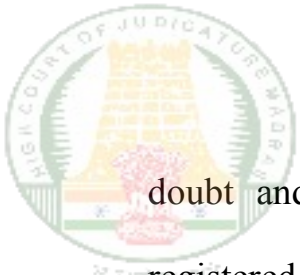
7.The learned counsel for the petitioner submitted that only in view of the stay order granted by this Court in the writ petition in W.P.(MD)No.4346 of



2020, the petitioner was reinstated into service by cancelling the suspension order on 03.02.2024. A period of more than three years have lapsed from the date of suspension and reinstatement of the petitioner into service. The department has also filed a protest petition as against the petitioner with respect to the charge memo, which has been issued as against the petitioner on 03.01.2020.

8.He further submitted that the disciplinary proceedings initiated against the petitioner by issuance of a charge memo if kept pending endlessly, that would be detrimental to the petitioner and after a period of more than four years, now the respondents cannot further proceed with the same against the petitioner as the criminal case in Crime No. 101 at Kadaladi Police Station, which culminated into C.C.No.376 of 2019, also has ended in acquittal. Hence, he submitted that the petitioner is entitled for treating the suspension period as duty period and prayed for allowing this writ petition.

9.The learned Additional Government Pleader for the respondents submitted that the petitioner cannot seek for considering his period of suspension as duty period before the conclusion of the disciplinary proceedings, which has been initiated against him. Though it is submitted by the learned counsel for the petitioner that he has been acquitted by the jurisdictional Criminal Court in C.C.No.376 of 2019 on 13.07.2020, the same was only on the basis of benefit of



doubt and the case against which he was charged was heinous in nature registered under Sections 341, 294(b), 506(i) IPC and Section 4 of the Tamil Nadu Prohibition of Women from Harassment Act, relating to the harassment meted out to the Teacher working with him. Hence, the petitioner cannot be let go free. The acquittal of the petitioner from the criminal case will not absolve the petitioner's criminal antecedents while in service and thereby preventing the department from initiating disciplinary proceedings as against him

10.The learned Additional Government Pleader categorically submitted that it is the priority of the Department to proceed with the disciplinary action as against the petitioner because the petitioner has been engaged in a noble duty of a Teacher in the Department of Education and as such the petitioner cannot press for considering his suspension period as duty period taking note of the acquittal in the criminal case.

11.Heard the rival submissions made by the respective parties and perused the materials available on record.

12.Having considered the submissions made on either side, I am of the considered view that the petitioner is entitled to get a copy of the complete set of documents pertaining to the charge memo dated 03.01.2020 to defend his case



effectively and without such particulars, the petitioner will be handicapped in submitting proper explanation to the said charge memo.

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13.It is brought to the notice of this Court by the learned Additional Government Pleader that the petitioner is presently working at Melur Government Higher Secondary School, Madurai. Hence, the second respondent is directed to furnish the necessary documents facilitating the petitioner to submit his explanation for the charge memo dated 03.01.2020 through proper channel within a period one (1) week from the date of receipt of a copy of this order. It is left open to the petitioner to submit his explanation within a period of one week from the date of receipt of the documents. Thereafter, the respondents are directed to proceed with the disciplinary proceedings in accordance with law. It is also made clear that in case of conclusion of the disciplinary proceedings favourably to the petitioner, the petitioner is entitled for treating the suspension period from 10.09.2019 to 03.02.2021 as duty period.

14.With the above directions, this writ petition is disposed of. No costs.

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Internet : Yes/No

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L.VICTORIA GOWRI, J.

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