



W.P.(MD)No.12182 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.12182 of 2024 &
W.M.P.(MD)Nos.10807 & 10809 of 2024

K.Paulraj

... Petitioner

VS.

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Department of School Education,
Fort St.George,
Chennai - 9.

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

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

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 1st respondent in his proceedings in G.O.(1D) No.11 dated 27.01.2023 and quash the same as



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illegal and consequent direction may be issued to the respondents to refund the amount recovered so far, as per the impugned order, within a stipulated time.

For Petitioner : Mr.T.Augustine Ebenezer

For Respondents : Mr.T.Amjadkhan,
Government Advocate

ORDER

Heard Mr.T.Augustine Ebenezer, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents.

2. The petitioner has filed this petition seeking to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 1st respondent in G.O.(1D) No.11, dated 27.01.2023 and quash the same and consequently direct the respondents to refund the amount recovered so far, as per the impugned order, within a stipulated time.



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3. The petitioner is aggrieved due to the impugned order wherein he was punished with the order of recovery to the tune of Rs. 36,000/- to be recovered at the rate of Rs.1,000/- per month from the pension payable to him for three years.

4. The petitioner was appointed as a Junior Assistant on 10.09.1981 at Government High School, Pullukattuvalasai, Mathalamparai, Tenkasi and after being promoted to various posts, he finally worked as a Bursar in District Institute of Education and Training, Munanjipatti, Tirunelveli District.

5. The petitioner was issued with charges stating that while he was working as a Personal Assistant to the District Educational Officer, Cheranmahadevi, he had been in active collusion with the School Management of Concordia Higher Secondary School, Vallioor and put up files to get approval from the second respondent for three fresh appointments.



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6. Mr.T.Augustine Ebenezer, 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.

7. Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents submitted that the petitioner's School was not 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.

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



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of Rs.36,000/- at the rate of Rs.1,000/- per month from his service pension for three years. The respondents 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.



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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.

11.06.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order

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To

- 1.The Principal Secretary,
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R.N.MANJULA, J.

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