



WP(MD)No.13011 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.13011 of 2022

and

WMP(MD)No.9229 of 2022

B.Arunkumar

.. Petitioner

v.

1.The Chief Educational Officer,
O/o.Chief Educational Officer,
Dindigul – 624 001,
Dindigul District.

2.The District Educational Officer,
O/o.Chief Educational Office,
Dindigul – 624 001,
Dindigul District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records relating to the impugned charge memo in Na.Ka.No.6483/Aa7/2021 dated 02.12.2021 on the file of the first respondent and quash the same.



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WP(MD)No.13011 of 2022

For Petitioner : Mr.S.Louis

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

ORDER

The petitioner was subjected for an enquiry under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The internal committee, which conducted the enquiry, has submitted a report that the allegations levelled as against the petitioner are false. However, the Management has proceeded further as against the petitioner by issuing a charge memo dated 02.12.2021. Challenging the same, the petitioner has filed this writ petition.

2.Learned Counsel for the petitioner, by referring to the provisions u/s.11, 13 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition ad Redressal) Act, 2013, submitted that there cannot be any further proceedings when the internal committee has made a recommendation that the allegations are false. According to the learned Counsel, the procedure for conducting an enquiry by the internal



WP(MD)No.13011 of 2022

committee itself is provided under the Act. Therefore, the further enquiry, *de hors* the report of the internal committee, amounts to double jeopardy.

3.Learned Special Government Pleader submitted that the petitioner has already filed a similar writ petition in WP(MD)No.8800 of 2022 as against the charge memo dated 02.12.2021 and sought for deferring the departmental proceedings. The said writ petition was disposed of by this Court, by order dated 29.04.2022, with a direction to keep the departmental proceedings in abeyance till the final report is submitted by the internal committee.

4.In view of the observations made by this Court in WP(MD)No.8800 of 2022, the point now raised by this petitioner is no longer *res integra*. He further submitted that the present writ petition was filed on 22.06.2022 after the order passed in WP(MD)No.8800 of 2022, dated 29.04.2022. However, the petitioner has deliberately suppressed the order passed in WP(MD)No. 8800 of 2022. The petitioner has not approached this Court with clean hands and therefore, he is not entitled for any relief.



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5.This Court considered the rival submissions made on either side and also perused the materials placed on record.

6.The only contention raised by this petitioner is that the internal committee constituted under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, has given him a clean chit after enquiry. While so, for the very same allegation, the impugned charge memo was issued.

7.In WP(MD)No.8800 of 2022 filed by this petitioner to defer the departmental proceedings, this Court has held as under:-

“4. The grievance of the petitioner is that during the process of inquiry by the Internal Complaints Committee, the departmental disciplinary proceedings are also continued simultaneously and in such an event, the petitioner would be prejudiced.

5. No doubt, the procedures to be followed by the Internal Complaints Committee and the Disciplinary Authorities are distinct and different. In view of the fact that the Internal Complaints Committee



has already seized of the matter and the enquiry is in progress, it is preferable that the departmental disciplinary proceedings may be continued after completion of the inquiry by the Internal Complaints Committee and on submission of its final report.

6. Even in case, the Internal Complaints committee forming an opinion that the charges are not established, the Departmental Disciplinary Authorities are empowered to continue the departmental disciplinary proceedings by invoking the provisions of the Tamil Nadu Government Servants Conduct Rules. The allegation of sexual harassment under the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Re-dressal) Act, 2013 (hereinafter referred to as "the Act") cannot be compared with the misconduct of the public servants under the Tamil Nadu Government Servants Conduct Rules. The procedures are also distinct and different. Thus, the exoneration in Internal Complaints Committee inquiry may not be a ground to seek exoneration from the departmental disciplinary proceedings. Thus, even after inquiry, the departmental disciplinary proceedings may go on and a final order may be passed in accordance with the Discipline and Appeal Rules in respect of the misconduct if any. Under the Tamil Nadu Government Servants Conduct Rules, even a moral turpitude is enough to punish an employee. However, under the Sexual Harassment Act, the procedures are contemplated and therefore, its distinction is always to be borne in mind by the Departmental Disciplinary Authorities while initiating departmental disciplinary



proceedings.

7. In the present case, the grievance of the writ petitioner is that the departmental disciplinary proceedings are to be kept in abeyance till the Internal Complaints Committee disposes of the inquiry proceedings. In fact, the report of the Internal Complaints Committee is also one of the source for initiation of further proceedings or for passing appropriate order in the manner known to law. This being the principles to be followed, the respondents are directed to keep the departmental disciplinary proceedings initiated against the writ petitioner under Rule 17(b) of the Discipline and Appeal Rules in abeyance till the final report is submitted by the Internal Complaints Committee and thereafter, the respondents are at liberty to proceed the departmental disciplinary proceedings taking note of the materials available on record including the report to be submitted by the Internal Complaints Committee."

8. Since this Court has already answered the issue now raised by the petitioner, this Court is not inclined to entertain this writ petition. Moreover, the petitioner has suppressed the order passed in WP(MD)No. 8800 of 2022 dated 29.04.2022 and has not approached this Court with clean hands while filing this writ petition on 22.06.2022. Therefore, this Court is not inclined to show any indulgence to the petitioner.



WP(MD)No.13011 of 2022

WEB COPY

Accordingly, this writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
NCC : Yes / No
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WP(MD)No.13011 of 2022

B.PUGALENDHI, J.

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WP(MD)No.13011 of 2022

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