



W.P.(MD)No.17460 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.17460 of 2022

and WMP (MD) No.14536 of 2022

G.Joseph Jeyaseelan

: Petitioner

Vs.

The District Educational Officer
Madurai District, Madurai.

: Respondent

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order passed by the respondent in his proceedings in RC.No.1273/A5/2022 dated 29.04.2022 and quash the same as illegal.

For Petitioner : Mr.C.Venkatesh Kumar
M/s.Ajmal Associates

For Respondents : Mr.M.Senthil Ayyanar
Government Advocate



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ORDER

Challenging the suspension order dated 29.04.2022 passed by the respondent, the petitioner has been filed this writ petition.

2. This Court, on 04.08.2022, had granted an order of interim stay of the suspension order and in view of the same, the writ petitioner was reinstated into service on 22.08.2022 and till date, he is working.

3. The case of the petitioner is that the petitioner is functioning as the Headmaster and also as Secretary of Sundarammal Middle School. Originally, two teachers were deputed in the year 2019 and subsequently their deputations were recalled and those teachers were reposted to their parent school. In the said place, another two teachers were deputed to the said School. Meanwhile, based on the complaint given by the two teachers who were engaged on deputation a criminal case has been registered on 12.03.2022 against the writ petitioner in Crime No.5 of 2022 for the offences punishable under Sections 354, 354(A), 509, 201 of IPC & 4 of TPHW Act and Section 28 of the Sexual



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Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013. However, the said allegations are refuted and denied by the petitioner.

4. It is the further case of the petitioner that the deputation of two teachers were cancelled by the respondent by his proceedings dated 02.03.2022 in Na.Ka.No.3257/A5/2021. Challenging the proceedings dated 02.03.2022, the petitioner had filed the writ petitioner in W.P. (MD) No.4106 of 2022 and this Court disposed of the said writ petition on 14.03.2022 citing that the law was set in motion pertaining to the registration of FIR against the petitioner.

5. Thereafter, the petitioner was arrested in connected to Crime No.5 of 2022 and by invoking Rule 17(e) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules 1955, the respondent has placed the writ petitioner under suspension vide the impugned proceedings dated 29.04.2022 in RC.No.1273/A5/2022. Aggrieved over the same, the petitioner has come forward before this Court with the present writ petition.



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6.The learned counsel for the petitioner submitted that the petitioner had also filed an appeal in W.A.(MD) No.325 of 2022 challenging the order made in W.P. (MD) No.4106 of 2022 dated 14.03.2022, which is pending before this Court and no interim stay has been granted till date. Insofar as the suspension order dated 29.04.2022 is concerned, it is not at all applicable to the petitioner since he is governed by the Tamil Nadu Private School Regulations Act, 1973. He further submitted that the petitioner is aged about 57 years and as on date, he has got three more years of service and there is no any further allegation or complaint raised against him.

6. The learned Government Advocate has filed the counter-affidavit along with the vacate stay petition dated 18.08.2022 wherein, it has been stated that the petitioner was arrested on 23.04.2022 and was placed in judicial custody for the period more than 53 days. Furthermore, the charges levelled against the petitioner is serious in nature and thus, he prayed for dismissal of this writ petition. The relevant paragraphs in the counter-affidavit are extracted hereunder:-

“9. I respectfully submit that as per order of



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the Hon'ble Court 9. dated 10.03.2022, the FIR was registered against the petitioner in crime No. 05/2022, under section 354,354(A), 509, 201 of IPC & 4 of TPHW Act & 28 of The Sexual Harassment of Women Work Place Act, 2013 before All Women Police Station, Madurai Town and he was arrested on 23.04.2022 and was placed in judicial custody for the period of more than 53 days i.e from 24.04.2022 to 17.06.2022, and in such circumstances there is no management in the Sundarambal Middle School, because the school was under single management and the person who taking care of the management is the petitioner and hence the Respondent passed an order in the proceedings in Na.Ka.No. 1273/A5/2022 dated 29.04.2022 for direct payment towards the management of the school and disbursement of salary for working staffs of the school in the management.

11. I respectfully submit that in the mean time as per the Hon'ble Court order the Internal



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Complaint Committee (ICC) was constituted on 17.03.2022 by the Respondent vide proceedings in Ma.Ka.No. 1273/A5/2022 and the ICC sent enquiry notice to the petitioner on 25.03.2022 to appear before the ICC on 01.04.2022, but the petitioner did not appeared on 01.04.2022, hence the ICC submitted its report on 26.04.2022, stating that the ICC cannot enquire the petitioner.

12. I respectfully submit that the contention of the petitioner that the Tamil Nadu Civil Servant (Disciplinary and Appeal) Rules, will not applicable to the petitioner on the ground that the petitioner's school is governed by the Private School Regulations Act and Rules not fineable for the simple reason is that earlier the field of legislation towards the education is falls under List-II, Entry-II, Schedule-VII of Constitution of India, 1950 as per Article 246 of Constitution of India, further after 42nd amendment in the year 1976, the field of legislation towards the education was removed from List-II, Schedule-VII under



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*Article 246 of Constitution of India and the same
was placed under st-III, Entry-25, Schedule-IX
under Article 246 of Constitution of India, 1950.”*

7. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent and perused the material available on record.

8. It is well settled law that an employee cannot be kept under prolonged suspension beyond the period of four months. Moreover, the writ petitioner was reinstated into service on 22.08.2022 vide proceedings in Na.Ka.No.22/A1/2022, dated 08.10.2024 and he is continuously working till date.

9. In view of the facts and circumstances of the case, no further order is required to be passed in this writ petition. The writ petition is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

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Index : Yes / No

Internet : Yes / No

PKN

To

The District Educational Officer,
Madurai District, Madurai.



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J.SATHYA NARAYANA PRASAD, J.

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