



WP(MD)No.25174 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 11.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.25174 of 2018

and

WMP(MD)No.22067 of 2024

S.Ganesan

.. Petitioner

v.

1.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.

2.The District Educational Officer,
Valliyur, Tirunelveli District.

3.The Concordia Higher Secondary School,
Rep. by its Correspondent,
Vadakangulam, Radhapuram Taluk,
Tirunelveli District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondents to reinstate the petitioner in service as Physical Education Teacher in the third respondent School by considering the petitioner's representation dated 27.07.2018.



WP(MD)No.25174 of 2018

For Petitioner : Mr.M.Punitha Devakumar

For Respondents : Mr.P.T.Thiraviam,
Government Advocate
for R.1, R.2

No appearance for R.3

ORDER

The petitioner was appointed as a Physical Education Teacher in the third respondent School. It appears that he was suspended by the third respondent school for his involvement in two criminal cases. The petitioner claims that without any enquiry, based on the criminal cases which were registered in Crime No.149 of 2000 and Crime No.360 of 2001, the petitioner was not permitted to discharge his duty as Physical Education Teacher. Therefore, the petitioner has approached this Court seeking a mandamus directing the respondents to reinstate him in service as Physical Education Teacher.

2.This Court, by order dated 20.12.2018, ordered notice to the respondents. Learned Government Advocate took notice for the



respondents 1 & 2. The third respondent has been served and their name is also printed in the cause list. However, there is no representation for the third respondent.

3.Learned Counsel for the petitioner submitted that the criminal cases registered as against this petitioner in Crime Nos.149 of 2000 and 360 of 2001 were closed u/s.468 CrPC that the police has not filed any final report. However, based on this false case foisted as against this petitioner, he was placed under suspension on 23.09.2000 and was not permitted to join the duty even after the closure of the criminal cases by the competent Court.

4.Learned Government Advocate submitted that the third respondent Institute is a minority institution and therefore, the scope of the Department is very limited. According to him, the petitioner was removed from service by the third respondent, by order dated 17.03.2005. He has also relied on a communication received from the third respondent on 16.10.2024 that the post of this petitioner itself has been surrendered to the common pool and there is no vacancy in the School and as such, the



petitioner cannot be accommodated. It is also pointed out that the petitioner has attained 62 years as on date.

5.This Court considered the rival submissions made by the respective parties and perused the materials placed on record.

6.Admittedly, the petitioner was terminated from service by an order dated 17.03.2005. The petitioner claims that the order dated 17.03.2005 has not been served on him and no enquiry was conducted before this order dated 17.03.2005.

7.The petitioner has filed this writ petition seeking a mandamus to reinstate him pursuant to the orders of the learned Judicial Magistrate on the two criminal cases registered as against him. The remedy available to this petitioner is to challenge the order dated 17.03.2005. Therefore, this Court directs the third respondent to furnish a copy of the order of termination dated 17.03.2005 to this petitioner within a period of two weeks from the date of receipt of a copy of this order. The petitioner is entitled to



WP(MD)No.25174 of 2018

challenge this order in the manner known to law. In the event, if this petitioner was not permitted to join duty by the third respondent without conducting any enquiry, it is always open to the petitioner to claim damages as against the third respondent.

8.The petitioner also claimed that he was not paid with any subsistence allowance during the period of suspension. In that event, the second respondent is directed to take necessary steps as against the third respondent and ensure that the eligible subsistence allowance is paid to the petitioner.

9.Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
NCC : Yes / No
gk

11.12.2024

To

1.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.



WEB COPY



WP(MD)No.25174 of 2018

B.PUGALENDHI, J.

gk

2.The District Educational Officer,
Valliyur, Tirunelveli District.

WP(MD)No.25174 of 2018

11.12.2024