



Rev.Apl.W(MD)Nos.24 and 25 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Rev.Apl.W.(MD)Nos.24 and 25 of 2023

in

W.P.(MD)Nos.12428 and 15367 of 2018

- 1.The Secretary,
Ettayapuram Raja Higher Secondary School,
Ettayapuram, Thoothukudi District.
- 2.Ramkumar.Raja ... Petitioners in both Review Application

Vs

- 1.C.Balamurugan
- 2.The Chief Educational Officer,
Chief Educational Office,
Thoothukudi District.
- 3.The District Educational Officer,
District Educational Office,
Kovilpatti-628 501,
Thoothukudi District. ... Respondents in both Review Application

Common Prayer: Review Applications are filed under Order XLVII, Rules 1 and 2 of the Civil Procedure Code r/w. Section 114 of Civil Procedure Code, to review the order of this Court in W.P.(MD).Nos.12428 and 15367 of 2018 dated 08.11.2022.



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(in both Review Application)

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For Petitioner : Mr.S.Ramesh

For Respondents : Mr.V.Meenkashi Sundaram for R1
Mr.T.Amjad Khan,
Government Advocate for R2 & R3.

COMMON ORDER

Heard both sides.

2.The first respondent herein filed W.P.(MD)Nos.12428 and 15367 of 2018 questioning his suspension. The first respondent was employed as Headmaster in Ettayapuram Raja Higher Secondary School. The writ petitions were disposed of on 08.11.2022. I had sustained the suspension order but set aside the extension. The liability to pay the salary arrears was cast on the management. Seeking review of the said orders, these review applications have been filed.

3.The learned counsel for the review applicants / management submitted that after getting interim stay of the suspension order, the writ petitioner did not report for duty and therefore, this Court erred in casting



the entire liability on the management. The learned counsel drew my attention to the reply dated 31.07.2018 issued by the management.

Paragraph No.3 of the said reply reads as follows:

“However my client wants to clearly and sincerely state that he has got no intention, muchless any wilfull intention to disobey the interim orders passed by the Honourable High Court. My client has never obstructed or hindered your client to resume work, after he become aware of the interim order. In fact your client has not come to the school to resume work. Your client is also not co-operating for proceeding with the disciplinary proceedings initiated against him.”

The learned counsel for the review applicant submits that the orders of this Court suffer from an error apparent on the face of record and hence, the order dated 18.11.2022 warrants review.

4.I am not swayed by the said submissions. It is seen that the writ petitioner was suspended from service on 11.05.2018. Questioning the same, the writ petitioner filed W.P.(MD)No.12428 of 2018. Interim stay was granted on 12.06.2018. It is not in dispute that the writ petitioner appeared in person before the management and produced copy of the interim order.



5.The management states that the writ petitioner thereafter left the premises and did not report for duty. The stand of the writ petitioner is that the management did not allow to him to join duty.

6.The management had filed counter affidavit in W.P.(MD)No.12428 of 2018. This counter affidavit was sworn on 23.07.2018. It has been stated therein as follows:-

“I humbly submit the witnesses in the disciplinary proceedings are presently working teachers and co-workers. If we allow him to work as head of the institution there are every possibility for his tampering all the witnesses sighted in the enquiry by using his men power and muscle power. Hence in the interest of the justice and for conduction fair domestic enquiry and the witness to depose fearless before domestic enquiry officer the order of stay dated 16.07.2018 granted by this Honourable Court has to vacated.”

7.The stand taken in the reply notice dated 31.07.2018 should be tested in the light of the averments found in the counter affidavit sworn to on 23.07.2018. Even according to the reply notice dated 31.07.2018, the writ petitioner had come to the school on 19.07.2018. As on 23.07.2018, the stand of the management was that the writ petitioner should not be allowed to rejoin duty.



Rev.Apl.W(MD)Nos.24 and 25 of 2023

8. There is nothing on record to show that after 23.07.2018, the management sent any notice to the writ petitioner calling upon him to join duty. When an employee was suspended from service and had obtained stay of the same, the only thing, the employee can do is to inform the management about the grant of interim order. It is for the management to call upon the employee to join duty. The employee cannot be expected to walk into the premises and occupy the chair meant for the Headmaster.

9. That is why, while disposing of W.P.(MD)Nos.12428 and 15367 of 2018 on 18.11.2022, I had recorded the fact that the management could not produce any copy of the communication sent to the writ petitioner calling upon him to report for duty. That is why, I saddled the management with the liability to pay the salary arrears. I do not find any error apparent on the face of the record and the review applications are dismissed. No costs.

18.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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Rev.Apl.W(MD)Nos.24 and 25 of 2023

G.R.SWAMINATHAN, J.

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To:

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Chief Educational Office,
Thoothukudi District.
- 2.The District Educational Officer,
District Educational Office,
Kovilpatti-628 501,
Thoothukudi District.

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