



W.P.No.1830 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2025

CORAM:

THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No.1830 of 2021

D. Baby Rosy

... Petitioner

Vs

1. The Chief Educational Officer
Chengalpattu District
Chengalpattu.

2. The District Educational Officer,
Chrompet Educational District,
St.Thomas Mount, Chennai.

3. The Secretary,
Jaigopal Garodia National Higher Secondary School,
East Tambaram,
Chennai 600 059.

4. R.Vijaya

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorari to call for the records relating to the impugned charge memo issued by the 3rd respondent in O.Na.No.2/2019-20 dated 10.12.2020 and to quash the same.



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For Petitioner : Mr.J.Jayamalan

For Respondent : Mrs.Akila Rajendran
Govt. Advocate for R1 & R2
Mr.N.Ganesh for R3 & R4

ORDER

This writ petition is filed for issuance of a writ of certiorari to call for the records relating to the impugned charge memo issued by the 3rd respondent in O.Na.No.2/2019-20 dated 10.12.2020 and to quash the same.

2. The petitioner was initially appointed as a Secondary Grade Teacher, as Management Staff in the 3rd respondent School/Jaigopal Garodia National Higher Secondary School, which is a Government Aided School, governed by the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973. After acquiring B.Sc (Maths) and B.Ed qualifications, she was appointed as B.T Assistant (Maths) in 2012, under management quota. Due to her meritorious services, she was awarded certificates of appreciation in 2015 and 2016 for securing 100% results in Class 10 Public Examinations. In 2018, following a regular vacancy in

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the Junior Assistant post, due to retirement, the petitioner was selected and appointed on 22.01.2018. The petitioner's appointment was duly approved by the District Educational Officer (DE) on 02.05.2018.

3. Following her regular appointment, the petitioner became the target of constant harassment by the 4th respondent/Headmistress, who allegedly aimed to replace her with a temporary staff member Tmt. Sheethala Devi. The petitioner was accused of tampering with attendance records and subjected to disciplinary action, including extension of probation and stoppage of increment. A show cause notice and subsequently a charge memo with nine charges were issued to the petitioner, which she claimed as false, malafide, and contrary to records. According to the petitioner, the said charge memo was issued without the consent of the School Committee, which was contrary to the decision of Hon'ble Full Bench in the case of K.M.Valliyappan Vs. Joint Director. Hence, challenging the charge memo dated 10.12.2020, the petitioner has filed the present writ petition.



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4. The 3rd and 4th respondents filed a detailed counter denying all contentions raised by the petitioner in the writ petition. The respondents denied the petitioner's contention that the charge memo was issued without jurisdiction, as there was no resolution of the school committee. The respondents submitted that there was a resolution passed in the school committee meeting convened on 09.12.2020 and thereafter the charge memo was issued on 10.12.2020. The respondents therefore submitted that there was no infirmity or illegality in the charge memo. The respondents further contended that the writ petition was premature and that no writ would lie against the charge-memo, as it does not give rise to any cause of action. The respondents relied on the judgment of the Hon'ble Supreme Court in Civil Appeal. No.2333 of 2007, in support of the said submission. The respondents for all the said reasons prayed for dismissal of the writ petition.

5. The learned counsel for the petitioner submitted that the impugned charge memo dated 10.12.2020, is non-est in the eye of law in as much as the same was passed without a resolution by the school



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committee. In support of his contention, he relied upon the judgment of the Hon'ble Full Bench of this Court in the case of ***K.M.Valliyappan Vs.Joint Director of School Education, (Higher Education) and Appellate Authority, College Road, Nungambakkam, Chennai – 600 006 and another*** reported in ***2006 (4) CTC 471***.

6. The learned counsel also relied upon the Hon'ble Division Bench judgment of this Court in the case of ***Vivekananda Higher Secondary School, rep.by its Secretary, Tirupparaitturai, Trichy District Vs R.Palani and others***.

7. Heard both sides and perused the materials available on record.

8. Challenging the charge memo dated 10.12.2020, issued by the third respondent, the writ petition has been filed. The petitioner's case is that the charge memo was issued without resolution by the school committee, to initiate disciplinary proceedings against the petitioner. On the other hand, the 3rd & 4th respondents state that the school committee passed a resolution on 09.12.2020, sanctioning disciplinary action



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against the petitioner. The 3rd and 4th respondents filed a typed set of papers in which the resolution dated 09.12.2020, of the school committee is filed. From the said resolution dated 09.12.2020, it is clear that the school committee had sanctioned disciplinary action against the petitioner. Therefore, the contention of the petitioner that the charge memo is incompetent and without jurisdiction cannot be countenanced. It is also pertinent to note that in pursuance to the petitioner's explanation dated 16.12.2020, to the charge memo, an enquiry notice was issued to the petitioner on 18.12.2020, where a specific reference was made to the said resolution of the school committee. In my view, the Full Bench judgment of this Court in the case of ***K.M.Valliyappan Vs. Joint Director of School Education, (Higher Education) and Appellate Authority, College Road, Nungambakkam, Chennai – 600 006 and another*** reported in ***2006 (4) CTC 471***, has no application to the facts of the present case, in as much as, factually in the full bench judgment, there was no resolution passed by the school committee, before initiating disciplinary proceedings, but in the present case, it is otherwise.



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9. It is also settled law that the challenge to charge memo cannot be entertained unless it is issued without jurisdiction. In this regard the judgment of the Hon'ble Supreme Court in the case of *Secretary, Ministry of Defence and others Versus Prabhash Chandra Mirdha*, reported in (2012) 11 SCC 565, in Civil Appeal No.2333 of 2007, relied on by the respondent's can be usefully extracted. The Hon'ble Supreme Court held as follows:

“10. Ordinarily a writ application does not lie against a charge sheet or show cause notice for the reason that it does not give rise to any cause of action. It does not amount to an adverse order which affects the right of any party unless the same has been issued by a person having no jurisdiction/competence to do so. A writ lies when some right of a party is infringed. In fact, charge sheet does not infringe the right of a party. It is only when a final order imposing the punishment or otherwise adversely affecting a party is passed, it may have a grievance and cause of action. Thus, a chargesheet or show cause notice in disciplinary proceedings should not ordinarily be quashed by the Court. (Vide State of U.P. v. Brahm Datt Sharma, Bihar State Housing Board v. Ramesh Kumar Singh, Ulagappa v. Commr., Special Director v. Mohd. Ghulam Ghouse and Union of India v. Kunisetty Satyanarayana.”



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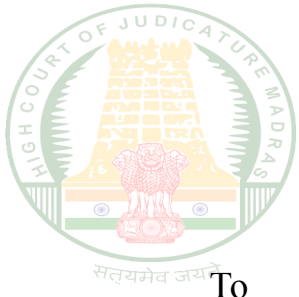
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10. In the light of the above discussions, I find no merit in the writ petition. The petitioner is directed to participate in the enquiry and co-operate with the authorities. The respondent/s concerned is/are directed to conclude the enquiry and pass final orders within a period of twelve weeks from the date of receipt of a copy of the order.

11. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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dpq
Index: Yes/No
Speaking order / Non speaking order



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N. MALA, J.

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