



W.P.No.34068 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.34068 of 2019 and
W.M.P.Nos.34671 & 34673 of 2019

Miss.Mary Amutha

... Petitioner

Vs.

1.State Head Officer,
Provincial Superior,
Carmelite Sisters of St.Teresa,
Tamil Nadu Province,
No.4/412, NGGO Colony,
Salamedu, Kandamanadi Post,
Villupuram 605 401.

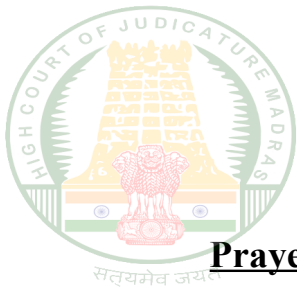
2.The Correspondent / President,
Society of Carmelite Sisters of St.Teresa,
Nalla Ayan Convent, Nalla Ayan Middle School,
Nihung Post, Kotagiri - 643 217.

3.The District Elementary Education Officer,
Nilgiris, Kotagiri 643 217.

4.The Assistant Elementary Education Officer,
Nilgiris, Kotagiri 643 217.

5.The Additional Assistant Elementary Education Officer,
Nilgiris, Kotagiri 643 217.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned dismissal order dated 31.05.2018 passed by the first respondent and quash the same as illegal and consequently, direct the respondents 1 and 2 to reinstate the petitioner in service with all other monetary benefits.

For Petitioner : Mr.K.Gandhi Kumar

For Respondents : Mr.V.Umakanth, GA for RR 3 to 5
Mr.P.Paul Selvam for RR1 & 2

ORDER

This Writ Petition has been filed to call for the records of the impugned dismissal order dated 31.05.2018 passed by the first respondent and quash the same as illegal and consequently, direct the respondents 1 and 2 to reinstate the petitioner in service with all other monetary benefits.

2. Heard Mr.K.Gandhi Kumar, learned counsel for the petitioner, Mr.P.Paul Selvam, learned counsel for the respondents 1 & 2, Mr.V.Umakanth, learned Government Advocate for the respondents 3 to 5 and perused the materials available on record.



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3. The petitioner has joined the religious institution by name Carmelite Sisters of St.Teresa, when she was 15 years only and continued her studies from being there. In the year 1996, she became a nun. After she completed the teacher training course, she was posted as Secondary Grade Teacher in Nallayan Middle School, Kotagiri on 07.06.2001. Later, she was promoted as Headmistress. The salary drawn by her has been handed over to the Convent and her personal requirements were being met with the small amount given by the superiors in the Convent. The petitioner continued to do her higher studies also in order to give the best service to the institute.

3.1. According to the petitioner, she realized after some point of time that nuns are valued only for their earnings and they are not respected and the petitioner was not taken care when she was sick for 21 days. Even when she was sick, the second respondent / Correspondent was not given her any medical treatment or care. She also collected the petitioner's ATM card to take money. The petitioner has made a decision



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to leave the institute and accordingly she left the institute on 11.06.2017.

However, the petitioner continued to do the teaching job by seeking permission to stay outside and she also got permission. However, this did not go well with the second respondent.

3.2. The petitioner gave a letter to the second respondent on 13.06.2017 to give her job protection without harassing her. She was given with undated showcause notice for which she sent a reply on 18.07.2017. Thereafter, the second respondent gave a charge memo on 21.09.2017 and the petitioner has given further explanation to the charge memo also. Thereafter, an exparte enquiry was conducted and during the pendency of the enquiry, the petitioner was kept under suspension. The enquiry report was submitted on 22.03.2018 with a finding that the charges against the petitioner were proved. Thereafter, the petitioner was dismissed from service by the first respondent vide order dated 31.05.2018. Now, the petitioner has filed this Writ Petition challenging the same.

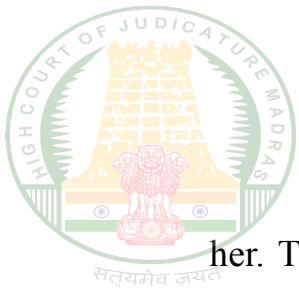


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4. The learned counsel for the petitioner submitted that the second respondent has developed some motive against the petitioner, as she started to raise voice against her. Even though the showcause notice was not given with 22 charges, the charge memo has been given with 22 charges which do not have any basis. The enquiry has been conducted hurriedly without allowing the petitioner to participate in the enquiry. It is further submitted that the second respondent who had alleged that the petitioner had disrespected her, has given the charge memo without allowing the first respondent to initiate action against the petitioner. As no one can be the judge of his own cause, it is not correct on the part of the second respondent to issue charge memo.

5. The learned counsel for the respondents 1 and 2 submitted that the petitioner conducted herself in an unruly manner and she was very rude to the second respondent and to all other teachers and students. Since the petitioner conducted herself in a most inappropriate manner, it necessitated the second respondent to initiate disciplinary action against



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her. The petitioner was served with various notices to participate in the enquiry. But she did not prefer to either receive the notice and the communications are returned unclaimed. It is the petitioner who did not make use of the opportunity given to her to participate in the enquiry and hence, she cannot blame the Management. The punishment of dismissal imposed on the petitioner was approved by the Chief Educational Officer also *vide* his order dated 26.05.2019 and thereafter, one sister J.Jecintha has been appointed as a new Headmistress in the place of the petitioner.

6. The fact that the petitioner had joined the religious institution by Carmelite Sisters of St.Teresa even when she was young and 15 years old was not denied. In the show cause notice dated Nil, the second respondent has alleged that the petitioner had left the institution and relinquished all her rights and cannot have the authority to hold the key and the petitioner had ill-treated all the teachers. So, it is claimed that the punishment of dismissal commensurates with the charges made against the petitioner.



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7. It is seen from the records that the petitioner was originally a nun attached to the first respondent and she was working in the School as Headmistress in which the second respondent was holding the post of Correspondent. As the second respondent is said to have ill-treated the petitioner, she raised her voice against the second respondent. In the show cause notice dated Nil, it has been alleged by the second respondent that the petitioner was holding the key even when she did not have any authority to hold the key with her. It is further alleged that the petitioner had forcibly taken the keys from the second respondent.

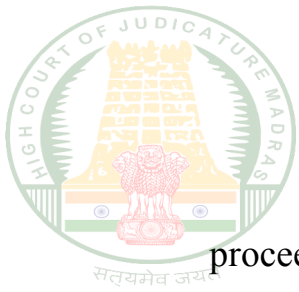
8. The petitioner is said to have put 17 years of service without any negative remark. Thereafter, it is claimed by the petitioner that just because she left the nun's hostel and continued to stay outside and sought job protection, the second respondent has issued a show cause notice. Thereafter, the departmental proceedings has been initiated against her. On perusal of the charge sheet, it is seen that the petitioner has been asked to answer for 22 charges, though she has been given with undated



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show cause notice only by elaborating four occurrences. In the show cause notice, it is alleged that the petitioner did not have any right to hold the school key or any other key after having left her religious sisterhood life. In the show cause notice, it is further alleged that the petitioner had taken away the keys by force and violated every rule and regulation of the School. It is further alleged that the petitioner has misbehaved and enriched herself through a wrongful gain and acted with ulterior motive.

9. Most of the allegations are general in nature and some involving the interest of the second respondent also. The charge memo has been given by the second respondent herself. In the charge sheet, several occurrences have been stated and the petitioner was asked to submit her explanation. Subsequently, the petitioner was suspended by the first respondent and the departmental enquiry has also been initiated pallelly. One Advocate by name Murugan was appointed as an Enquiry Officer. Even though the petitioner got the notice for enquiry, she did not choose to participate in the enquiry. The repeated communications are seen to have been sent to the petitioner in order to make her aware of the enquiry

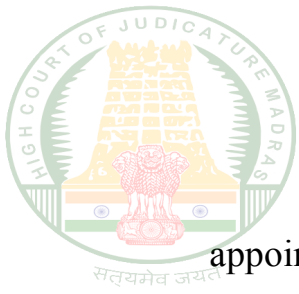


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proceedings and to participate in the same. The enquiry report has been submitted that the charges have been proved. Thereafter, the petitioner was found guilty and given a second show cause notice. As the second show cause notice also was not received by the petitioner, the punishment order of dismissal from service was imposed by the first respondent.

10. The learned counsel for the petitioner submitted that the petitioner had rendered unblemished service and that was not considered by the first respondent before imposing the capital punishment of dismissal from service.

11. The records would show that there was some misunderstanding between the petitioner and the second respondent while they were discharging their roles as Headmistress and Correspondent respectively. Despite there are some personal misunderstanding between the petitioner and the second respondent, the second respondent without allowing the first respondent to interfere into the matter to issue the charge sheet or to



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appoint someone else as the disciplinary authority had issued the charge sheet by herself. Had the first respondent was given prior intimation, it would have been possible for the first respondent to depute some neutral member of the Religious Institution to interfere and find out at the first instance what was happening in the convent where the petitioner was staying. When there was some personal animosity between the second respondent and the petitioner, it is not ideal that the second respondent herself has taken the matter into her hands.

12. No doubt, the fault is also on the petitioner that she did not participate in the disciplinary proceedings conducted by the third party Enquiry Officer. As the enquiry was conducted *ex parte* and the order of punishment was also passed *ex parte*, I feel an opportunity should be given to the petitioner to cross-examine the witnesses on the side of the Management in order to disprove the charges framed against her.

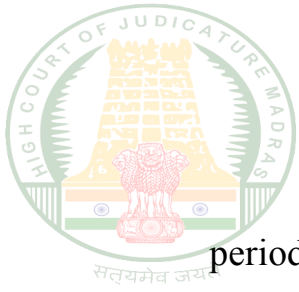
13. In the instant case, the petitioner has got problem only after she left the religious life and opted to work as a lay teacher. The second



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respondent continues to be in the convent could not have taken it lightly and the petitioner was also not found to be comfortable to participate in the enquiry. So I feel it is appropriate for the first respondent to seize the matter and ensure that the petitioner be given with an opportunity to cross-examine the witnesses who were examined on the side of the Management and get the enquiry report and thereafter, pass a fresh order.

14. In view of the above stated reasons, this **Writ Petition is disposed** and the impugned order dated 31.05.2018 passed by the first respondent is set aside and the first respondent is directed to reinstate the petitioner into service by posting her in any one of the school falling under the Convent either as a teacher or headmistress by permitting her to stay outside from the date of her reinstatement, but without back wages. The petitioner's entitlement for back wages and other service benefits will depend upon the outcome of the enquiry report which shall be conducted in compliance with the orders of this Court. The first respondent is directed to pass an appropriate order in this regard within a



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period of **four weeks** from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
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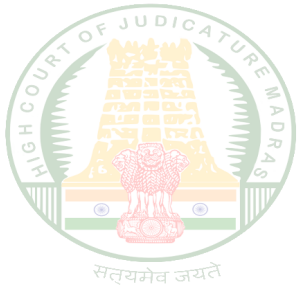
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