



W.A(MD)No.1290 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2025

CORAM:

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

W.A(MD)No.1290 of 2022

and

C.M.P(MD)No.9985 of 2022

Sis.Kala

...Petitioner/Appellant

-Vs-

- 1.The District Educational Officer,
Thanjavur District,
Thanjavur.
- 2.The Assistant Elementary Educational Officer,
Office of the Assistant Elementary Educational,
Officer, Pattukottai,
Thanjavur.
- 3.The General Manager,
Diocese Schools,
Bishop of Thanjavur &
President,



W.A(MD)No.1290 of 2022

WEB COPY

Diocese of Tanjore Scoiety,

4.The Correspondent,
St.Soosaiyappar Elementary School
Sanjaya Nagar, Aladikkumulai PO
Pattukkottai Taluk,
Thanjavur District.

5.The Head Mistress,
St.Soosaiyappar Elementary School,
Sanjaya Nagar, Aladikkumulai PO
Pattukkottai Taluk,
Thanjavur District.

6.Thiru P.Murugan

...Respondents/Respondents

PRAYER: Writ Appeal filed under Clause XV of Letters of Patent Appeal,
against the order dated 14.06.2022 made in W.P(MD)No.9076 of 2016
passed by this Court.

For Appellants	: Mr.R.Russel Raj
For R1 & R2	: Mr.V.Omprakash
For R3	: Mr.C.Muthusaravanan
For R4 & R5	: Mr.S.Razario Sundarraaj
For R6	: No appearance



W.A(MD)No.1290 of 2022

WEB COPY

J U D G M E N T

DR.G.JAYACHANDRAN, J.
AND
R.POORNIMA, J.

The appellant herein was Secondary Grade Teacher in the fourth respondent School administered by the third respondent. For two major misconduct viz., unauthorized absence without leave and for indulging in money lending transaction, charge memos were issued to her on 07.10.2015 and 18.01.2016 containing the main charge and other ancillary charges. Enquiry Officer was appointed and on the finding of the Enquiry Officer that the charges were proved, the Disciplinary Authority viz., the third respondent terminated her from service, vide order, dated 20.04.2016. Challenging the charge memos as well as the consequential order of termination, she preferred the writ petition in W.P(MD)No.9076 of 2016 before this Court.

2.The learned Single Judge, after considering the submissions made by the petitioner as well as the Management, modified the punishment



W.A(MD)No.1290 of 2022

of dismissal from service as compulsory retirement. Being aggrieved, the present appeal is filed by the writ petitioner on the ground that the learned Single Judge not considered the fact that there was cross violation of natural justice, while conducting the disciplinary proceedings. The enquiry notice and the final order were not passed by the appropriate authorities. The explanation given by the delinquent to the two show cause notices was not properly considered and in haste, final order was passed.

3.The learned counsel appearing for the appellant would submit that the enquiry was conducted in a farce manner. The Enquiry Officer was biased and not properly recorded the questions during the enquiry proceedings. He would further submit that the order of punishment of termination passed by the third respondent Bishop, who is the Appellate Authority only. The fourth respondent viz., the Correspondent, ought to have passed the final order and the Bishop, who is the overall head of the institution run by the Diocese, is the Appellate Authority. The said procedure lapsed not only deprive the right of the appellant to prefer the



W.A(MD)No.1290 of 2022

WEB COPY

appeal, but also disclose the biased against her by the Management. The learned counsel also submitted that during the period of suspension, the appellant was not paid subsistence allowance. The learned counsel also submitted that the allegations of money lending transaction, based on the complaint given by one Xavier is totally a make believe complaint. Since it is a known fact that the Correspondent did not receive any salary and whatever paid is been given to the missionary and the source of finance is not available with her to lend money. Without any material evidence to prove the money lending nearly based on the submissions of Xavier, she was found guilty and capital punishment was imposed on her, which is even otherwise disproportionate to the allegations for a period of one month absent, that too on intimation. The termination of a Teacher who has already put in 16 years of service is apparently bad in law.

4. The learned counsel appearing for the Management would submit that it is incorrect to stay the termination order was passed by the person is not a competent to terminate the delinquent. The order of



W.A(MD)No.1290 of 2022

WEB COPY

termination dated 20.04.2016 was passed by the General Manager, Diocese School, Bishop of Thanjavur and the President, Diocese of Thanjavur, who are the Appellate Authority as well as the Authority to terminate. The enquiry was conducted by an Officer appointed by the Management, who is a professional Advocate and the enquiry was conducted fairly in the manner known to law. Out of two show cause notices, for two different categories of charges, the delinquent participated in the first day of enquiry and subsequently she did not attend the enquiry. She participated, but refused to sign the second enquiry proceedings. For the second set of charges, she cross-examined the witnesses without any protest. The allegations of bias against the Enquiry Officer is an after thought.

5.Regarding the charge of unauthorized absence, the counsel submits that without any intimation, the writ petitioner absent from reporting work since 19.10.2015. When show cause notice was issued to her by the Correspondent, she came out with the untenable explanation enclosed with unsigned Medical Certificate and without any authentic. The



W.A(MD)No.1290 of 2022

WEB COPY
explanation was not accepted for want of proof. Since the discipline is premordial for teacher dealing with the student of tender age, the conduct of the appellant was unbecoming and not conducive for the administration of the School. Hence she was dismissed from service. However, the learned single Judge thought fit that the service so far rendered by the writ petitioner/appellant has to be saved. Hence, modified the punishment to the effect that the order of dismissal into compulsory retirement to enable the appellant to get her service benefits. Though the Management ready to process her pension paper, till date the appellant not co-operated by furnishing her TSR and other required documents.

6.Heard the learned counsel for the appellant as well as the learned counsel for the respondent.

7.Is a case involving employer and employee.



W.A(MD)No.1290 of 2022

WEB COPY

8.The employer is a minority institution running schools at various places. The appellant was an employee in one of the school at Aladikkumulai, Pudukottai Taluk. Admittedly, she had absented from reporting work which has lead to issuance of the show cause notice followed by the disciplinary proceedings. Her explanation found not satisfactory by the Management. That apart, on a complaint given by one Xavier that she is involved in money lending transaction, charges been framed and enquiry was conducted, in that enquiry, the writ petitioner/appellant had participated and cross-examined the witnesses. Since the complainant is one of the parent, the management has thought it fit that having money transaction with the wards of the students, has lead to disrepute to the management. Under such circumstances, the capital punishment of removal of service been imposed.

9.The learned Single Judge, after considering the merits of the case, though submission was made to remit the matter back for *De novo* enquiry, thought fit that in view of the strained relationship between the



W.A(MD)No.1290 of 2022

WEB COPY

employer and employee, ordering De novo enquiry may not be proper, instead the capital punishment of dismissal of service altered and modified as compulsory retirement to enable the delinquent to get the benefit of past service.

10.After ascertaining that the writ petitioner had put sufficient length of service to get pension and the management is ready to process her pension papers if the appellant co-operate by furnishing all details viz., the age of superannuation of the delinquent, this Court is of the considered view that there is no need to interference with the order of the learned single Judge

11.In view of the proven and misconduct, which has disentitled her to continue service as a Teacher in the respondent School, the order of compulsory retirement protecting the past service benefits will be proportionate punishment commensurating to the misconduct.



W.A(MD)No.1290 of 2022

WEB COPY

12. With the above observations, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

[G.J., J.] & [R.P., J.]
28.02.2025

NCC : Yes / No
Index : Yes / No
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W.A(MD)No.1290 of 2022

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