



W.P(MD)No.20275 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 12.12.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.20275 of 2023 and
WMP(MD) No.2018 of 2024

Madhivanan K

... Petitioner

Vs

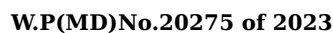
1.The Director of Elementary Education,
Department of Elementary Education,
No.17, College Road,
Thousandwards West,
Nungambakkam,
Chennai 600 008.

2.The District Educational Officer,
District Education Office,
Pudukottai District.

3.The District Educational Officer/ Enquiry Officer,
District Education Office,
Trichy District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned notice in Na.Ka.No. 2606/A1/2023 dated 28.07.2023 on the file of the Respondent No.3, for calling upon the petitioner to give explanation for the charge



memo dated 28.01.2016 issued by the second respondent and quash the same as illegal.

For Petitioner : Mr.I.Pinaygash
For Respondent : Mr.M.Sarangan
Additional Government Pleader

ORDER

This petitioner is working as a Head Master in Panchayat Union Primary School, Keelapatti, Pudukottai District. He was placed under suspension, pursuant to a criminal case registered as against him in Crime No.183 of 2015, for the offence punishable under Sections 354 A(2) IPC and under Section 4B(2) of Tamil Nadu Prohibition of Women Harassment Act, 1998. He was also issued with a charge memo, under Section 17b of the Tamil Nadu Disciplinary and Appeal Rules, on 28.01.2016 and the same was challenged by the petitioner before this Court in WP(MD) No. 2863 of 2016, on the ground that the charge memo was issued as against this petitioner, pursuant to a criminal case, however the criminal case is still pending. This Court, by its order, dated 10.03.2016, deferred the disciplinary proceedings for a period of six months till the conclusion of the criminal trial. Thereafter, the



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criminal case in SC No.35 of 2016 was ended in conviction, by a judgment, dated 12.06.2017. According to the petitioner, the respondents, without conducting the departmental proceedings has erroneously dismissed this petitioner from service, based on the judgment dated 12.06.2017. Challenging the conviction, the petitioner has filed a criminal appeal before this Court in Criminal Appeal(MD) No.178 of 2017. This Court, by its Judgment dated 30.06.2020 has allowed the criminal appeal. Thereafter, this petitioner has approached this Court by way of another writ petition in WP(MD)No. 4676 of 2021, seeking reinstatement into service, based on the judgment passed in Criminal Appeal and the same was allowed by this Court by its order dated 10.10.2022 directing the second respondent to reinstate this petitioner into service considering the order of acquittal passed by this Court in Crl.A(MD) No.178 of 2017. However, this Court has permitted the Department to proceed with the disciplinary proceedings. Challenging the order passed by this Court in WP(MD) No.4676 of 2021, dated 10.10.2022, the Department has preferred writ appeal before this Court in WA(MD) No. 182 of 2023 and the same was dismissed



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with liberty to the Department to initiate disciplinary proceedings.

Thereafter, the impugned notice has been issued to the petitioner calling for his explanation to the charge memo dated, 28.01.2016. This showcase notice calling for explanation to the charge memo dated 28.01.2016 is challenged by way of this writ petition on the following grounds:

- i. There is a delay in 7 years in issuing the show cause notice.
- ii. The enquiry has been contemplated based on the criminal case, wherein, this petitioner has been acquitted in CrI.A(MD) No.178 of 2017, dated 30.06.2020.
- iii. This Court, while disposing the writ petition WP(MD) No. 2863 of 2016 has directed the Management to resume the departmental proceedings at the end of the six months, irrespective of the criminal trial. However, the departmental proceedings was resumed only on 28.07.2023. Therefore, according to the learned counsel, it is against the directions of this Court in WP(MD) No.2863 of 2016.

2.The learned Additional Government Pleader appearing for the respondents has raised objections to the averments made by the petitioner that the delay occurred in view of the litigations before this Court in the criminal proceedings cannot be construed as an



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inordinate delay in initiating the departmental proceedings. He further submits that acquittal in a criminal case would not debar the employer/Department from exercising the power to conduct departmental proceedings in accordance with the Rules and regulations. Now the Department have taken steps to proceed with the departmental proceedings as per the order of this Court, dated 10.10.2022. Moreover, the order impugned in this writ petition is only a show cause notice and therefore, at this stage, there is no need to interfere with the impugned show cause notice.

3.This Court considered the rival submissions made and also perused the materials placed on record.

4.The petitioner, a Head Master in Panchayat Union Primary School, Keelapatti, Pudukottai District was dismissed from service, pursuant to his involvement in a criminal case. The petitioner has approached this Court that though he was convicted by the trial Court, the order of conviction was set aside by this Court in the Criminal Appeal. The grievance of the petitioner is that even



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after his acquittal in a criminal case, disciplinary proceedings has been initiated as against him and a show cause notice has also been issued. The order impugned in this writ petition is the show cause notice, calling upon this petitioner to offer his explanation to the charge memo, which was issued to this petitioner on 28.01.2016, under Rule 17b of the Tamil Nadu Disciplinary and Appeal Rules, based on a criminal case. Even in the year 2016, the petitioner has approached this Court by way of writ petition in WP (MD) No. 2863 of 2016 that in the event, if the disciplinary proceedings is proceeded, then his defence would be affected in the criminal case. Therefore, this Court, while disposing of that writ petition, has deferred the departmental proceedings for a period of six months, however, with a condition that the departmental proceedings has to resume at the end of six months irrespective of conclusion of the criminal trial. The trial was concluded only on 12.06.2017 and ended in conviction. Thereafter, the respondents without even resuming the disciplinary proceedings has erroneously dismissed this petitioner from service and that was also rectified by this Court in WP (MD) No. 4676 of 2021, dated 10.10.2022, to reinstate this petitioner into



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service with a liberty to the Department to proceed with the disciplinary proceedings. Though a writ appeal was filed against this order, it was dismissed, by order, dated 07.03.2023, confirming the order of the writ Court. The writ Court as well as the Division Bench of this Court, while setting aside the order of dismissal, issued a direction, enabling the Department to proceed with the disciplinary proceedings. Therefore, the subsequent orders passed by this Court in WP(MD) No.4676 of 2021, dated 10.10.2022 and WA(MD) No. 182 of 2023, dated 07.03.2023 merges with the earlier order of this Court in WP(MD) No. 2863 of 2016, dated 10.03.2016.

5.The petitioner was issued with a charge memo in the year 2016 itself. However, it has not been proceeded, in view of the orders passed by this Court in WP(MD) No.2863 of 2016 and in view of the litigation pending on this issue in WP(MD) No. 4676 of 2021 and in WA(MD) No/ 182 of 2023. Therefore, it cannot be treated that the disciplinary proceedings has been initiated belatedly.



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6.The other ground raised by the petitioner is that this petitioner was issued with a charge memo, based on the criminal case registered as against him in Crime No.183 of 2015 and the same was ended in acquittal and therefore, the disciplinary proceedings has to be dropped. It is a settled position of law that an acquittal in a criminal case does not bar the departmental/ disciplinary proceedings against an employee as the criminal trials require proof "beyond a reasonable doubt", while disciplinary actions only require a "preponderance of probabilities,".

7.In view of the above, this writ petition is liable to be dismissed and accordingly, it is dismissed, however, with a direction to the respondents to proceed with the disciplinary proceedings and conclude the same within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petition is closed.

12.12.2025

NCC: Yes/No
Index: Yes/No
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B.PUGALENDHI, J.

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