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W.P.No.33897 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2026

CORAM

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.33897 of 2015

Smt.T.Jeyarani
Working as Assistant Head Master-I
AP 529, I Block
Anna Nagar, West
Chennai-600 040.

... Petitioner

vs.

1. The Director of School Education
College Road, Chennai-8.
2. The Chief Educational Officer
Saidapet, Chennai-15.
3. The District Educational Officer
Chennai North, Chennai-8.
4. The Secretary
T.V.K.Higher Secondary School
Shenoy Nagar, Chennai-600 030.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned order of punishment in No.123/TJ/2014 dated 06.10.2015 of the 4th respondent and quash the same and consequently,

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direct the 4th respondent to pay fine to this Hon'ble Court for illegal and intentional proceedings which is NON-EST in the law.

For Petitioner : Mr.K.Venkatramani
Senior Advocate
for Mr.M.Alagu Goutham
For Respondents : Mrs.P.Rajarajeswari
Government Advocate
for R1 to R3
Mr.S.Nedunchezhiyan, for R4

ORDER

The challenge in the captioned writ petition is to the order dated 06.10.2015 passed by the fourth respondent, by which the petitioner was imposed with the punishment of stoppage of increment for three years with cumulative effect.

2. A communication dated 24.10.2013 was issued by the Chief Educational Officer, Chennai, to the fourth respondent. In the said communication, it was stated that, in respect of the 11th Standard Public Examination, out of 212 students who appeared, 182 students passed and 30 students failed. Out of the said 30 students, 23 students appeared for the Instant Examination. It was further stated that three students, who had not passed in the Mathematics subject, were declared to have passed, even



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though the marks obtained by them in the Instant Examination as well as on re-evaluation remained unchanged, namely 24, 26, and 20 respectively. The Headmaster was also instructed to furnish an explanation and to initiate disciplinary action against the person concerned.

3. Pursuant to the said communication, a show cause notice dated 09.05.2014 was issued to the petitioner. The petitioner submitted her explanation dated 23.06.2014, stating that she had not evaluated the 11th Standard Mathematics answer scripts of the Instant Examination. Not being satisfied with the said explanation, the Management placed the petitioner under suspension by order dated 01.08.2014 and also issued a charge memo of even date. The charges read as follows:

“1. Based on the proceedings of the Chief Educational Officer Na.Ka.No.6161/A6/2013, dated 24.10.2013, that you have involved and awarded higher marks to the Registration Nos.11980, 12002, and 12146 to promote the students who were failed in the Maths subject;

2. By that you have violated the provisions of the code of conduct and committed gross misconduct as per the Tamil Nadu Recognised Private Schools (Regulations) Act and Rules.”



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4. The petitioner submitted her explanation to the show cause notice, denying the charges. As the Management was not satisfied with the explanation, an Enquiry Officer was appointed to enquire into the allegations against the petitioner. Before the Enquiry Officer, the Management did not examine any witnesses; however, it produced four documents, namely, the answer script of one student relating to the Instant Examination and two answer scripts pertaining to the General Examination.

5. The Enquiry Officer, after recording the statement of the petitioner and upon considering the materials available on record, returned a finding that the charges against the petitioner stood proved.

6. Thereafter, the Management issued a second show cause notice calling for a further explanation. The petitioner submitted her further explanation, denying the charges and also challenging the findings of the Enquiry Officer. The Management, not being satisfied with the further explanation, passed the impugned order of punishment. Aggrieved by the same, the captioned writ petition has been filed.

7. Mr. K. Venkatramani, learned Senior Counsel appearing on behalf of the counsel on record for the petitioner, submitted that the materials on



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record clearly establish that the answer scripts of the three students in the Instant Examination were not evaluated by the petitioner. He further submitted that the Headmaster concerned, at the relevant point of time, had endorsed that, since the said three students had failed, higher marks might be awarded to enable them to pass. He would further contend that, except for one answer script, the Management did not produce the other two answer scripts before the Enquiry Officer and that, in the absence of any cogent evidence to substantiate the charges, the impugned order is not legally sustainable.

8. The learned Senior Counsel placed reliance on the judgment in ***L.K. Verma vs. H.M.T. Ltd. and Another, AIR 2006 SC 975 : (2006) 2 SCC 269***, wherein it was held that the High Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, though may ordinarily decline to entertain a writ petition on the ground of availability of an alternative remedy, the said rule is not of universal application. Despite the existence of an alternative remedy, a writ court may exercise its discretionary jurisdiction, *inter alia*, where the authority lacks inherent jurisdiction, where there is violation of fundamental rights, where principles of natural justice



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have been violated, or where the vires of an Act is under challenge. In such circumstances, the alternative remedy does not operate as a bar *[Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai and Others, (1998) 1 SCC 1]*.

9. In response, Mr. S. Nedunchezhiyan, learned counsel appearing for the fourth respondent, submitted that the writ petition is not maintainable, as Section 23 of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 (hereinafter referred to as “the TNRPS Act” for the sake of brevity, convenience, and clarity) provides for a statutory right of appeal against any order of punishment passed by aided schools to the Joint Director. He further submitted that the materials placed before the Enquiry Officer clearly establish that the petitioner was involved in the correction of three answer scripts in the Instant Examination and that, though the students had failed, higher marks were awarded to enable them to pass. In the absence of perversity or arbitrariness, the impugned order does not warrant interference.

10. The learned State Counsel appearing for respondents 1 to 3 reiterated the submissions made by the learned counsel for the fourth respondent.



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11. The arguments advanced by the learned counsel on either side and the materials available on record have been duly considered.

12. The petitioner had earlier approached this Court in W.P. No. 23922 of 2014 challenging the order of suspension. This Court, by order dated 16.03.2015, set aside the order of suspension and directed the Management to reinstate the petitioner forthwith, with a further direction to conclude the enquiry proceedings at the earliest. The challenge made to the said order by way of review was also dismissed. Thereafter, the Management preferred W.A. No. 657 of 2015. The Hon'ble Division Bench, by order dated 21.04.2015, disposed of the writ appeal observing that, since during the pendency of the writ petition the enquiry had been concluded and the charges were held proved, a decision had been taken to dismiss the petitioner from service; however, the file was pending with the Government and no final decision had been taken at that point of time. Subsequently, the fourth respondent decided to reconsider the imposition of punishment on the basis of the enquiry report and, pursuant to the observations of the Division Bench, passed the impugned order.



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13. A perusal of the enquiry report reveals that, with regard to the first charge, the petitioner had categorically denied the allegation, stating that she was not involved either in the correction of the answer scripts or in awarding higher marks to the three students who had failed in Mathematics for the purpose of promoting them. She further stated that the documents produced by the Management consisted of one Instant Examination answer script not corrected by her and two answer scripts relating to the common annual examination.

14. Before the Enquiry Officer, the petitioner categorically stated that the answer scripts were corrected by one S. Arul, a Mathematics Teacher handling 11th Standard students. The answer script disclosed that the student had secured 24 marks out of 200 and that there was an endorsement made by the then Headmaster stating that, since the boy had failed in Mathematics, he might be awarded 40 marks. The said answer script does not establish that the petitioner had either corrected the script, made any endorsement, or was in any manner involved in awarding higher marks.

15. The Management failed to produce the other two answer scripts relating to the students who were allegedly awarded higher marks. During



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questioning, the petitioner admitted that she was the only P.G. Assistant (Mathematics) in the school. She further admitted that the individual who evaluated the paper was unqualified and that she had permitted such an unqualified person to evaluate the answer scripts. She also conceded that, despite being a School Committee Member and Assistant Headmistress in-charge, she had not taken steps to bring to the notice of the Management the alleged malpractices committed by the then Headmaster and other teachers.

16. The charge framed against the petitioner was one of direct misconduct, namely, awarding higher marks to students to enable them to pass. However, the impugned order of punishment is not based on proof of this charge. Instead, the petitioner has been held guilty on a different ground — alleged dereliction of duty in failing to bring the malpractice to the notice of the Management.

17. This amounts to travelling beyond the charge memo. It is settled law that an employee cannot be punished on allegations which were never framed as charges or put to the delinquent for defence. Since the petitioner was never charged with supervisory lapse or failure to report illegality, the punishment founded on such reasoning violates the principles of natural



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justice.

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18. A perusal of Exhibits P1 to P4 establishes that marks were awarded even for incorrect answers. However, there was no evidence before the Enquiry Officer to substantiate the specific charges against the petitioner. Despite the absence of cogent evidence, the Enquiry Officer returned a finding that the charges stood proved. As the finding is based on no evidence, this Court is entitled to interfere with the same.

19. The petitioner, in her further explanation, reiterated that she had neither corrected the three Instant Examination answer scripts nor was she involved in awarding higher marks. However, the fourth respondent, while passing the impugned order, held that, being a School Committee Member and Assistant Headmistress in-charge, the petitioner had failed to report the malpractices committed by the then Headmaster and other teachers. This reasoning travels beyond the original charges, which alleged her direct involvement in correction and award of higher marks. In the absence of evidence on the framed charges, the impugned order is legally unsustainable.

20. With regard to maintainability, the impugned order was passed in violation of the principles of natural justice, as the petitioner was not



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afforded an opportunity to defend the allegation that she had failed to report the malpractices. The writ petition, filed in the year 2015, has remained pending till date.

21. In light of the above discussion, this Court is of the considered view that the Management has failed to prove the charges. Further, punishment has been imposed on grounds not forming part of the charge memo, which is a clear violation of the principles of natural justice. Hence, the writ petition is maintainable.

22. Accordingly, the captioned Writ Petition stands allowed and the impugned order dated 06.10.2015 passed by the fourth respondent is hereby quashed.

23. The respondents 1 to 3 are directed to pay subsistence allowance to the petitioner for a period of two months, and the subsistence allowance for the remaining period shall be paid by the fourth respondent. The respondents are further directed to revise the petitioner's pensionary benefits as a consequence of this order and disburse the same within a period of four months from the date on which the fourth respondent forwards the proposal. The fourth respondent shall submit the proposal for revision of pension and



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pensionary benefits within two months from the date of receipt of this order.

It is made clear that the petitioner shall not be entitled to interest on the said amounts. There shall be no order as to costs.

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Neutral Citation : Yes / No

Speaking / Non-speaking

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HEMANT CHANDANGOUDAR, J.,

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