

(2000) 07 MAD CK 0083

In the Madras High Court

Case No : Writ Petition No. 9216 of 1997 and W.M.P. No. 14392 of 2000

M. Dilshad Begum

APPELLANT

Vs

The Director of Elementary Education, The District
Elementary Educational Officer and Anwarul Islam Aided
Primary School

RESPONDENT

Date of Decision : 21-07-2000

Acts Referred:

Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 — Rule 17A, 17A(4)

Citation : (2000) 07 MAD CK 0083

Hon'ble Judges : P. Sathasivam, J

Bench : Single Bench

Advocate : C. Selvaraju, for the Appellant; R. Muthaiyan, G.A. (Edn.) and H. Haza Nazruddin, for R.3, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—By consent, the main writ petition itself is taken up for final disposal.

2. Aggrieved by the proceedings of the third Respondent dated 20.12.1995 relieving her from the post of Secondary Grade Teacher with effect from 12.12.1995, she has filed the above writ petition.

3. The case of the Petitioner is briefly stated hereunder:

She was appointed as Secondary Grade Teacher in the 3rd Respondent Management School on 03.07.1991 in a sanctioned post and the same was approved. While she was working as a Secondary Grade Teacher she received impugned communication dated 20.12.1995 from the third Respondent stating that the management has accepted her resignation and she is relieved from service from 12.12.1995. In the same communication the management has referred to several complaints against her. She sent a lawyer's notice on 08.01.1996 denying all the allegations. She also made representation to the

second Respondent. The second Respondent instructed the management to take her in service. Apart from highlighting her case regarding various allegations made against her in the impugned proceedings, it is stated that she has not submitted the resignation voluntarily and it has been obtained by coercion. The management has not forwarded her resignation letter and got approval under Rule 17-A of the Tamil Nadu Private Recognised Schools (Regulation) Rules (hereinafter referred to as the "Rules"). Inasmuch as, without getting approval they relieved her from the post, the order of acceptance of resignation and relieving is arbitrary and illegal consequently the same is liable to be set aside.

4. The third Respondent management has filed counter affidavit, wherein it is stated that the resignation letter was given by her voluntarily and there was no force or coercion on the part of the management. As per the clarification issued by the Chief Educational Officer, Madurai dated 23.02.1997 the provisions particularly Rule 17-A of the Rules is not applicable, hence there is no question of approval by any of the Educational Authority. With these averments, they prayed for dismissal of the writ petition.

5. In the light of the above pleadings, I have heard the Learned Counsel for Petitioner and Respondents.

6. Even at the outset, Mr. C. Selvaraju, Learned Counsel appearing for the Petitioner has brought to my notice certain allegations made against the Petitioner by pointing out that Petitioner was not given an opportunity and also of the fact that the resignation letter dated 20.12.1995 was obtained by the management by coercion. In the absence of any approval by the competent Educational Authority under Rule 17-A of the Rules he prayed for quashing of the impugned proceedings and for direction to reinstate her as Secondary Grade Teacher with all consequential benefits.

7. In order to appreciate the claim made by the Petitioner, it is useful to refer the allegations made against the Petitioner, which find place at page 2 of the typed set of papers. They are as follows.

It is also specifically stated by the Petitioner that only because of force and coercion she submitted her resignation letter dated 20.12.1995, accordingly it is for the Chief Educational Officer or the District Educational Officer concerned to get the confirmation of the Petitioner. The relevant rule is as follows.

17-A Educational agencies not to obtain compulsory resignation letter either at the time of appointment or subsequently from the employees in their schools:

(1)....

(2)....

(3)....

(4) No teacher or other person employed in a private school shall be relieved from service on the strength of (sic) be sent to the Chief Educational Officer

concerned in respect of teachers and other persons employed in High Schools (Higher Secondary Schools) and Teachers' Training Institutes and to the District Educational Officer concerned in respect of teachers and other persons employed in Pre-Primary, Primary and Middle Schools. The Chief Educational Officer or District Educational Officer concerned shall in turn get the confirmation of the teacher or other person employed, as the case may be, as to the fact of such resignation and then accord his approval to relieve the teacher or other person employed, as the case may be, from service.

I have already stated that, even at the earlier point of time she had disputed her resignation letter dated 20.12.1995. More so, the management had alleged several instances, complaining her on various aspects. In the light of the assertion made by the Petitioner regarding her resignation letter dated 20.12.1995 and in view of the imputations alleged by the management as referred to above, as per Rule 17-A(4), the concerned Educational Authority has to get the confirmation of the Petitioner. Admittedly the said course has not been followed. No doubt, Learned Counsel appearing for the management by drawing my attention to the proceedings of the Chief Educational Officer, Vellore, dated 21.09.1994 would contend that, in view of the earlier decision of this Court the School being a minority School, Rule 17A(4) does not apply to their School. Mr. C. Selvaraju, Learned Counsel for the Petitioner has brought to my notice that this Court had no occasion to consider 17-A(4), since the same was inserted by the Government by G.O.Ms. No. 566 Education dated 02.04. 1981. Admittedly, the earlier decision of this Court is well prior to the insertion of Rule 17-A. In such circumstance, the said decision as well as the consequential proceedings of the Chief Educational Officer dated 21.09.1994 are not helpful to the third Respondent's case. Courts have repeatedly held that, in disciplinary proceedings of the teacher or other persons of a private School, undoubtedly the management has to follow the rules strictly. Failure to comply with the said Rule and in the absence of confirmation by the concerned educational Officer vitiates the impugned proceedings.

8. Under these circumstances, the impugned proceedings of the third Respondent dated 20.12.1995 is quashed and the writ petition is allowed. No costs. Consequently, connected WMP, is closed.