

(2011) 03 MAD CK 0152

In the Madras High Court

Case No : Writ Petition No. 29091 of 2010 and M.P. No. 1 of 2010

Mr. Maria Joseph Michael Raj. S

APPELLANT

Vs

The Director of School Education, The District Educational
Officer and The Head Master and Correspondent, Mont Fort
High School

RESPONDENT

Date of Decision : 25-03-2011

Acts Referred:

Citation : (2011) 03 MAD CK 0152

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : M. Muthappan, for the Appellant; Lita Srinivasan, GA for R1 and R2
and S. Wilson, for R3, for the Respondent

Judgement

T. Raja, J.—The Petitioner has filed the present writ petition seeking issuance of writ of mandamus to direct the 3rd Respondent to send the

necessary proposals to the 2nd Respondent for the payment of arrears of salary and regularisation of suspended period and other service and

monitory benefits.

2. The Petitioner was originally appointed as Secondary Grade Teacher in the 3rd Respondent school on 08.07.1987. While serving as Secondary

Grade Teacher, he was suspended on 19.03.2008 for the period of two months for pending enquiry of grave charges. Thereafter, the suspension

period was extended for another period of two months. Later on, the 3rd Respondent has issued a charge memo on 14.08.2008 levelling 5

charges. That apart, a criminal complaint was also made for the said charges. Finally, criminal case ended in acquittal in C.C. No. 408/2008, dated

21.03.2009, by the Judicial Magistrate, Alandur. In the meanwhile, the

departmental proceedings were also completed. On submission of the report of the enquiry officer, the disciplinary authority imposed a punishment of stoppage of increment for three years with cumulative effect by order dated 01.05.2010.

3. The grievance of learned Counsel for the Petitioner is that the order of punishment does not speak anything about the reinstatement and regularisation of the suspended period. Therefore, he made a representation dated 07.05.2010 requesting the 3rd Respondent to permit the Petitioner to join the service and also to regularise the non-employment period with all consequential monetary and service benefits. After some time, by order dated 25.05.2010, the suspension order was revoked.

The learned Counsel for the Petitioner further submitted that though the Petitioner has given written undertaking to the 3rd Respondent promising not to claim any arrears of salary from the management during the suspended period, the Respondent, atleast, from the date of reinstatement, should have cleared the further salary, which they have not done so till date. Secondly, the period of suspension should have been regularised for the purpose of future pensionary benefits. But the Respondent, till date, have not considered the written representation dated 07.05.2010.

Therefore, the Petitioner was constrained to file the present writ petition with the aforesaid prayer.

4. When the matter was taken up, the learned Counsel appearing for the 3rd Respondent submitted that after the Petitioner was reinstated into service, obviously, he is entitled to get the salary. Accepting the same, a proposal has already sent to the 2nd Respondent. However, the 2nd Respondent, till date, has not expedited for the same. Therefore, the 3rd Respondent school is awaiting order from the 2nd Respondent for making payment to the Petitioner in respect of the period from 01.06.2010.

5. So far as the second prayer made by the Petitioner is concerned, the Petitioner has already given a letter dated 02.06.2010 undertaking not to claim any arrears of salary from the management during the suspended period. But, however, the period of suspension should be regularised for the purpose of getting his future pensionary benefits. Therefore, this Court directs the 3rd Respondent to send a formal proposal to the 2nd Respondent. If any such proposal sent for regularisation only for the limited

purpose of getting pensionary benefits, the same shall be considered on merits by considered by the 2nd Respondent within a period of two weeks from the date of receipt of a copy of this order.

6. Further, admittedly, the 2nd Respondent received a proposal from the 3rd Respondent school for payment of salary from 01.06.2010,

therefore, the same shall also be considered by the 2nd Respondent within four weeks from the date of receipt of a copy of this order.

7. With the above direction, the present writ petition is disposed of. No Costs. M.P. No. 1 of 2010 is closed.