
(2014) 03 MAD CK 0141

In the Madras High Court

Case No : W.P. (MD) No. 16345 of 2013 and M.P. (MD) Nos. 1, 2 and 3 of 2013

R. Ramasubramanian

APPELLANT

Vs

The Secretary, Guru Gnana Sambandar Hindu Higher
Secondary School

RESPONDENT

Date of Decision : 28-03-2014

Acts Referred:

Citation : (2014) 3 LLN 231

Hon'ble Judges : K. Ravichandra Babu, J

Bench : Single Bench

Judgement

K. Ravichandra Baabu, J.—Challenge in this Writ Petition is against the Order passed by the Second Respondent dated 4.6.2013 and consequently for a direction to the Respondents to accept the withdrawal of the resignation submitted by the Petitioner dated 30.6.2011, 7.2.2013 & 25.4.2013 and permit him to resume duty as Physical Education Teacher in the First Respondent-School. The case of the Petitioner is as follows:

The Petitioner was appointed as Physical Education Teacher in the First Respondent-Institution on 8.8.2002 through sponsorship from the Employment Exchange. The First Respondent institution is an Aided Institution governed by the Private School Regulations Act. At some point of time, the Headmaster of the School and the School Management had some difference of opinion and consequently the Petitioner was found fault by the Management. The Petitioner was forced to submit resignation by the School Authorities as if the Petitioner had tendered his resignation on 8.11.2010 wholeheartedly. The said Resignation Letter was placed before the School Committee on 10.11.2010 and the School Committee resolved to accept the same and send it for approval to the Second Respondent.

2. As per Rule 17 of the Tamil Nadu Recognised Private Schools (Regulation) Rules, while tendering the resignation to the Appointing Authority, the Teacher has to inform the same to the Educational Authority by Registered Post. But the

Petitioner has not done so since it was not voluntary. Therefore, the official Respondents did not act on the proposal sent by the First Respondent. After 8.11.2010, the Petitioner was not allowed to attend the School and in the Attendance Register he has been marked absent from 9.11.2010 onwards. The Third Respondent through his proceedings dated 15.3.2011 issued a Letter to the Petitioner to appear for an enquiry on 31.3.2011. The Petitioner appeared before the Third Respondent and explained the circumstances and further expressed his willingness to withdraw his resignation. The Petitioner submitted a representation on 30.6.2011 addressing the Third Respondent to allow him to resume duty at the First Respondent-Institution. The Second Respondent directed the Petitioner to appear for an enquiry on 9.1.2013. But the enquiry was postponed to 7.2.2013 on which date the Petitioner appeared and gave a written representation and also expressed his willingness to rejoin duty. The Petitioner's representation was forwarded to the First Respondent so as to consider his request to resume duty. However, the said request was refused by the First Respondent by passing a Resolution on 11.3.2013. The First Respondent sought for approval of the resignation of the Petitioner from the Third Respondent. In the meantime, the Petitioner sent a Letter on 25.4.2013 to the First Respondent for withdrawal of his resignation and the same was rejected by the First Respondent on 4.6.2013. The said communication of the First Respondent dated 4.6.2013 is impugned in this Writ Petition.

3. The First Respondent filed a Counter Affidavit wherein it is stated as follows:

On 8.11.2010, the Petitioner had submitted resignation to the First Respondent and submitted a copy to the District Educational Officer and the Chief Educational Officer in accordance with Rule 17-A of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974. The said resignation was voluntary without any coercion. The Petitioner was having serious personal problems which prompted him to submit his resignation. On 10.11.2010, the School Committee accepted the resignation. The District Educational Officer was also informed that the resignation was voluntary. Rule 17-A does not contemplate withdrawal of the resignation. It only contemplates an enquiry to find out whether the resignation was voluntary or not. In this case, the Petitioner had resigned voluntarily.

4. The Third Respondent filed a Counter Affidavit, wherein it is stated as follows:

The Petitioner had indulged in some activities affecting the moral code of conduct of teachers. Hence, the First Respondent sent a Show Cause Notice to the Petitioner on 23.7.2008. The Petitioner tendered an unconditional apology by his Letter dated 25.7.2008. The Petitioner himself was absent from duty from 1.6.2010 without intimating to the First Respondent. Thereafter, the Petitioner tendered a resignation on 8.11.2010 on his own will. The School Committee accepted the resignation. The First Respondent sent a proposal to the Third Respondent through Letter dated 20.12.2010 seeking his approval. The necessary approval for relieving the Petitioner should be given only by the Second Respondent. In the meanwhile, the Petitioner sent a representation on

30.6.2011 to the Third Respondent seeking permission to resume duty. In an enquiry conducted on 9.1.2013 the Petitioner also gave representation before the Second Respondent expressing about his willingness to rejoin duty. Accordingly, the Second Respondent forwarded the Petitioner's request to the First Respondent-School. But the First Respondent-School passed a resolution on 11.11.2013 refusing to accept the request of the Petitioner.

5. Mr. K. Venkataramani, learned Senior Counsel appearing for the Petitioner submitted that Rule 17-A of the above said Rules has not been followed in strict sense in this case. The Petitioner's resignation was not voluntary. Even before such resignation was approved by the competent Educational Authority, the Petitioner had withdrawn the said resignation and sought for permission to join duty. He further submitted that the Petitioner has not sent the communication of the resignation to the Educational Authorities as mandatorily required under Rule 17-A of the said Rules. Therefore, such resignation is not a valid resignation.

6. Per contra, the learned Counsel appearing for the First Respondent School contended that that the resignation once accepted by the School Committee cannot be withdrawn and therefore, the question of allowing the Petitioner to rejoin the post does not arise.

7. Heard the learned Counsel appearing on either side and perused the materials placed before this Court.

8. In this case, the Petitioner was working as Physical Education Teacher at the First Respondent-School from 8.8.2002 onwards. There is a resignation letter given by the Petitioner on 8.11.2010. According to the Petitioner the said letter was not given voluntarily but on the other hand it was obtained by force. Per contra, the First Respondent School contends that the said resignation letter was given by the Petitioner voluntarily due to personal problems.

9. Rule 17-A of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974 deals with the procedure to be followed in respect of resignation by the Employees in the School. For proper appreciation, relevant sub-rule (1) to (4) of Rule 17-A of the said Rules are extracted hereunder:

"17-A Educational agencies not to obtain compulsory Resignation Letter either at the time of appointment or subsequently from the Employees in their School.

(1) Whenever a Teacher or other person, employed in a private school, tenders his resignation of appointment, he shall inform the fact of his resignation in writing by Registered Post with Acknowledgment due to the District Educational Officer, Inspectress of Girls School or the Deputy Inspector of Schools concerned.

(2) No Teacher or other person employed in a Private School shall give to the educational agencies, at any time, undated or pre-dated resignation letter.

(3) No Educational Agency shall insist or compel any Teacher or other person employed in a Private School to give, at any time, undated or pre-dated

Resignation Letter.

(4) No Teacher or other person employed in a Private School shall be relieved from service on the strength of Resignation Letter. The Resignation Letter shall, on receipt, be sent to the Chief Educational Officer concerned in respect of Teacher and other persons employed in High Schools, Higher Secondary Schools and Teachers' Training Institutes and to the District Educational Officer concerned in respect of Teacher and other person employed in a 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."

10. A perusal of the above said Rules would show that whenever a Teacher or other person employed in a Private School tenders his resignation of appointment, he should inform the fact of his resignation in writing by Registered Post with Acknowledgment due to the District Educational Officer, Inspectress of Girls Schools or the Deputy Inspector of Schools concerned.

11. Sub-Rule (4) further contemplates that no teacher or other person employed in a Private School shall be relieved from service on the strength of Resignation Letter, unless such resignation is accorded approval by the Chief Educational Officer or the District Educational Officer concerned. In this case, it is specifically stated by the Petitioner that his resignation letter was obtained by force and he has not given the same to the First Respondent-School as a voluntary action. The Petitioner has also specifically stated that he has not informed the fact of his resignation to the District Educational Officer. Even though in the Counter Affidavit filed by the First Respondent it is stated that the Petitioner has sent such communication to the District Educational Officer and the Chief Educational Officer in accordance with Rule 17-A of the said Rules, the Counter Affidavit filed by the Third Respondent has not specifically stated anywhere that the Petitioner has sent such communication to the Educational Authorities. Therefore, this Court can safely come to a conclusion that sub-rule (1) of Rule 17-A, has not been followed.

12. While coming to sub-rule (4), as already pointed out, the Educational Authorities viz., the Chief Educational Officer or the District Educational Officer has to accord approval on the resignation of the Teacher. Only then the School can relieve the teacher from the service. In this case, even before granting such approval, the Petitioner has withdrawn the request for resignation by making Applications on 30.6.2011, 7.2.2013 & 25.4.2013. It is his specific case that original Resignation Letter given on 8.11.2010 was not voluntary. In this case, no doubt, the Resignation Letter given by the Petitioner was accepted by the School Committee. But even then the fact remains that the Educational Authorities have not accorded their approval to the said resignation as contemplated under sub-rule (4). Therefore, the First Respondent-School cannot act on the resignation

given by the Petitioner till a finding is given by the Educational Authorities on the nature of such resignation. Thus, the Second Respondent viz., the Chief Educational Officer, Virudhunagar District has to conduct an enquiry and give a finding as to whether the resignation given by the Petitioner on 8.11.2010 is voluntary or not. Only when such finding is given the question of considering the Petitioner's request for continuing in service or the School's right to relieve the Petitioner would arise. Therefore, the Writ Petition is disposed of with the following directions:

(i) The Second Respondent will hold an enquiry and find out as to whether the resignation given by the Petitioner on 8.11.2010 is voluntary or not. Such enquiry shall be conducted and a finding shall be rendered within a period of four weeks from the date of receipt of copy of this Order.

(ii) If the Second Respondent comes to the conclusion that the Petitioner has given the resignation voluntarily, then he can accord approval of such resignation. On the other hand, if he comes to the conclusion that such resignation was not voluntary, then he can pass an Order accordingly so as to enable the Petitioner to resume duty at the First Respondent-School.

No costs. Consequently the connected M.Ps. are closed.