

(2006) 06 MAD CK 0089

In the Madras High Court

Case No : Writ Appeal No. 3606 of 2003 and W.A.M.P. No. 5889 of 2003

The Secretary, Parunthalaivar Kamarajar Higher Secondary
School

APPELLANT

Vs

A. Jeyapaul Mohan, The Secretary, Karnataka Secondary
Education Examinations Board, The State of Tamil Nadu

RESPONDENT

Date of Decision : 22-06-2006

Acts Referred:

Citation : (2006) 06 MAD CK 0089

Hon'ble Judges : V. Dhanapalan, J;P. Sathasivam, J

Bench : Division Bench

Advocate : R. Suresh Kumar, for the Appellant; M.V. Venkataseshan, for
Respondent 1 and M. Dhandapani, Additional Government Pleader for R3 and R4,
for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The above Writ Appeal is directed against the order of the learned single Judge, dated 23.07.2003, made in W.P. No.

4374 of 1996, in and by which, the learned Judge directed the school Management to afford an opportunity to the writ petitioner and thereafter

proceed with the enquiry and decide the issue one way or the other. In the very same order, the learned Judge ordered reinstatement of the

petitioner in service with continuity of service.

2. The only grievance of the appellant/Management is that, even if it is held that the first respondent herein/writ petitioner is entitled to an

opportunity of show cause notice, the learned Judge is not justified in ordering reinstatement with continuity of service. It is also stated that, after

the termination order dated 25.3.1996, in his place one Kasiraju was appointed

as Secondary Grade Teacher even on 04.02.1997 and that, in the absence of any order of stay in the writ petition, the said Kasiraju was continuing all along. By pointing out the above factual details, learned counsel for the appellant submitted that the direction regarding reinstatement may be set aside.

3. On the other hand, learned counsel appearing for the first respondent contended that in view of the conclusion of the learned Judge that no opportunity was given to the writ petitioner before passing the order of termination, the learned Judge is justified in granting the consequential relief of reinstatement with continuity of service.

4. We considered the rival contentions and perused the materials. As stated earlier, there is no dispute that the Writ petitioner/first respondent

herein should have been given an opportunity of being heard before passing of the termination order dated 25.03.1996. At the same time, it is to

be noted that, in the absence of any prohibitory order, the Management, even in the year 1997, appointed the said Kasiraju in his place. No doubt,

learned counsel appearing for the first respondent submitted that there is an observation by this Court that any appointment would be subject to the

result of the Writ Petition. In view of the fact that immediately after the order of termination, Kasiraju was appointed and thereafter, according to

the counsel for appellant, he was promoted and another person was also appointed in his place; we are of the view that, though the first

respondent is entitled to an opportunity of being heard, the further direction for reinstatement in service is not warranted, when the court itself

permitted the school management to initiate proper proceedings and conduct enquiry as regards the genuineness of the certificate produced by the

Writ Petitioner. Accordingly, while confirming the order of the learned Judge with regard to affording opportunity and permitting the management

for initiating proper proceedings and enquiry, we set aside the direction relating to reinstatement.

5. Considering the fact that the issue is pending for several years, the proposed enquiry shall be completed within a period of 12 weeks from the

date of receipt of copy of this order. The first respondent herein is directed to co-operate for the completion of the enquiry within the time-frame

fixed by us. It is made clear that, depending on the outcome of the enquiry,

further order has to be passed.

Writ Appeal is allowed in part to the extent mentioned above. No costs.
Connected Miscellaneous Petition stands closed.