

R.Rajesh Ebenezer Vs. the Director of Elementary Education

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Court : Chennai

Decided On : Jun-18-2014

Judge : S.Nagamuthu

Appellant : R.Rajesh Ebenezer

Respondent : The Director of Elementary Education

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED : 18.06.2014
CORAM THE HONOURABLE MR.JUSTICE S.NAGAMUTHU W.P.No.15702 of
2014 R.Rajesh Ebenezer .Petitioner versus 1.The Director of Elementary
Education, DPI Campus, College Road, Chennai 600 006.

2.The District Elementary Educational Officer, Krishnagiri District.

3.Mr.Krishna Tejas ..Respondents Writ Petition filed under Article 226 of the
Constitution of India praying for the issuance of a writ of Certiorarified Mandamus
calling for the records of the second respondent in Na.Ka.No.413/A3/2014 dated
13.02.2014 and quash the same and consequently direct the second respondent
herein to include the name of the petitioner in the panel for promotion to the post
of Primary School Headmaster, Shoolagiri Panchayat Union, Krishnagiri District.

For Petitioner : Ms.Dakshayani Reddy For Respondents: Mr.R.Rajeswaran,
Spl.G.P.,

ORDER

The petitioner is presently working as a Secondary Grade Teacher in Panchayat Union Elementary School at Ponnalnatham Panchayat Union Primary School, Shoolagiri, Krishnagiri District.

The second respondent by his proceedings in Na.Ka.No.413/A3/2014 dated 13.02.2014, has issued a charge memorandum under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules framing as many as two charges.

The petitioner challenges the same before this Court.

2.This writ petition has come up today for admission.

Mr.R.Rajeswaran, learned Special Government Pleader takes notice for the respondents.

By consent of both parties, the writ petition itself is taken up for final disposal.

3.I have heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents and I have also perused the records carefully.

4.Though, several grounds have been raised in the writ petition, the learned counsel for the petitioner would mainly focus her arguments on two grounds.

Namely, the charges are very vague and it do not contain the basic requirements like date, time, place and the other details in respect of the alleged occurrence which is the foundation for the charges.

The second ground of attack made by the learned counsel for the petitioner is that though, in the charge memorandum as many as five documents have been cited, copies of those documents have not been furnished and that the statements, if any, recorded from the four witnesses cited also have not been furnished to the petitioner.

5.The learned counsel for the petitioner would further submit that on receipt of the said charge memorandum, the petitioner submitted an objection immediately,

raising the above two grounds.

The learned counsel would further submit that on the ground of vagueness of the charges as mentioned above and on the ground that the documents have not been furnished to the petitioner, the impugned charge memorandum is liable to be quashed.

6.The learned Special Government Pleader appearing for the respondents would submit that in the event, this Court considers that the charges framed against the petitioner are very vague and that the copies of documents have not been furnished to the petitioner, as it is stated by the learned counsel for the petitioner, while quashing the charge memorandum, liberty may be given to the second respondent to issue a fresh charge memorandum giving all the details thereby satisfying the legal requirements and also to furnish copies of all the documents to the petitioner.

The said statement is recorded.

7.Though, the learned counsel for the petitioner also submitted that the impugned charge memorandum has been issued at the instigation of the third respondent, against whom, there is a criminal case registered and thus, the second respondent is biased, I am not inclined to go into that ground since, I am inclined to quash the impugned charge memorandum on the above two grounds raised by the learned counsel for the petitioner.

8.As I have already pointed out, the charge memorandum is very vague and it does not contain the details such as, date, place and time, etc., relating to the occurrence, which, is the foundation for the charges.

In the absence of these details, it is difficult for the petitioner to defend the charges.

Thus, I hold that the charge memorandum is vague and therefore, on this ground itself, the impugned charge memorandum is liable to be quashed.

9. Apart from that, as rightly contended by the learned counsel for the petitioner, the petitioner is entitled for copies of the documents cited in the charge memorandum and also statements of witnesses, if any, cited in the charge memorandum.

At the same time, I should make it very clear that it is open for the second respondent to frame appropriate charges against the petitioner giving all the details so as to satisfy the legal requirements and to furnish a copy of all the documents to the petitioner and then to proceed further in accordance with law.

10. In view of all the above, the writ petition is disposed of in the following terms:-

(i) The impugned charge memorandum issued by the second respondent in Na.Ka.No.413/A3/2014 dated 13.02.2014 is hereby set aside however, with liberty to the second respondent to issue a fresh charge memorandum giving all the details as required under law and to furnish copies of the documents to be relied on and also furnish the copies of the statements, if any, of the witnesses to be examined and then, to proceed in accordance with law and (ii) For any reason, if any fresh charge memorandum is issued by the second respondent against the petitioner and if the petitioner feels aggrieved by the same, he will be at liberty to work out his remedies in the manner known to law.

No costs.

18.06.2014 jbm Index: Yes/No Internet: Yes/No To 1. The Director of Elementary Education, DPI Campus, College Road, Chennai 600 006.

2. The District Elementary Educational Officer, Krishnagiri District.

S.NAGAMUTHU, J jbm W.P.No.15702 of 2014 18.06.2014

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