



WRIT APPEAL(MD)No.1104 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2023

CORAM

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

WRIT APPEAL(MD)No.1104 of 2023

and

CMP(MD)No.8490 of 2023

D.Velmani

: Appellant/Petitioner

Vs.

**1.The Executive Director (Personnel),
Life Insurance Corporation of India,
Central Office, Jeevan Bema Marg,
Mumbai-400 021.**

**2.The Senior Divisional Managr,
Life Insurance Corporation of India,
Divisional Office, Thanjavur.**

**3.The Branch Manager,
CA Branch, “Jeevan Prakash”
Ground Floor, Gandhiji Road,
Thanjavur.**

: Respondents/Respondents



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Prayer:

Writ Appeal has been filed under Clause 15 of Letters Patent to set aside the order, dated 24.06.2022 made in W.P.(MD)No.4328 of 2019.

For Appellant : Mr.C.Arulvadivel @ Sekar
Senior Advocate
for Mr.S.Sankarapandian

For Respondents : Mr.G.Prabhu Rajadurai

J U D G M E N T

D.BHARATHA CHAKRAVARTHY, J.

This Writ Appeal is directed against the order of the learned Single Judge of this Court, dated 24.06.2022 in W.P.(MD)No.4328 of 2019, in and by which the learned Single Judge dismissed the writ petition filed by the appellant. In the writ petition, the appellant challenged circular, dated 30.09.2015 and consequently, the charge memo issued to the appellant dated 07.02.2019 and prayed for quashing the same.

2. The case of the appellant is that he was appointed as a Sweeper on compassionate ground on 17.09.2003. His educational qualification



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was only sixth standard. Thereafter, he was promoted as Record Clerk. For appointment to the post of Cashier, a clarification was issued on 16.05.2009 by a circular that the panel of officiating Cashiers would include all confirmed Class III employees. On the basis of the impugned circular, the respondents included the appellant in the panel of officiating Cashier. Since the appellant did not have the requisite qualification and computer knowledge, by his letter dated 27.11.2018, the appellant requested that he be dropped from the panel. However, by an order dated 03.12.2018, the said request was refused and repeatedly thereafter, by several letters, the appellant was directed to act as officiating Cashier. Since the appellant did not obey the orders of the superiors and did not function as Cashier, a charge memorandum, dated 07.02.2019 was issued. Under these circumstances, the appellant challenged both the circular as well as the charge memorandum.

3. The learned Single Judge of this Court found that the contention of the appellant that he did not have the qualification is not a ground for quashing the impugned circular as selection to the post of Cashier is



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different from officiating in the said post. Since the appellant's challenge to the circular was rejected, the consequential challenge to the charge memorandum was also rejected and the writ petition was dismissed. Aggrieved by the same, the present writ petition is preferred by the appellant.

4. Heard Mr.C.Arulvadivel @ Sekar, learned Senior Counsel representing for Mr.S.Sankarapandian, learned counsel appearing on behalf of the appellant and Mr.G.Prabhu Rajadurai, learned counsel appearing on behalf of the respondents.

5. The learned Senior Counsel appearing for the appellant would submit that the appellant had studied only upto sixth standard and since he did not have computer knowledge, he was unable to carry on the said functions. But though for convenience later on the appellant has taken such a stand, originally, his representation to the Branch Manager reads as follows:



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“தற்போது நான் SC/ST நலச்சங்கத்தில் தற்போது இருப்பதால் மேற்கண்ட தொழிற்சங்கத்தின் தூண்டுதலின் பேரிலும் நிர்வாகம் தொழிற்சங்கத்தோடு கைகோர்த்துக் கொண்டு என்னை காசாளர் பட்டியலில் சேர்த்து என்னை காசாளர் பணி செய்திடுமாறு வற்புறுத்துகின்றனர். இதற்கு சான்றாக நான் CAB, Thanjavur கிளையில் 2013-ல் கும்பகோணம்-2 கிளையிலிருந்து மாற்றலாகி தற்போது வரை RC ஆக பணிபுரிந்து கொண்டு வருகிறேன். அப்போதிலிருந்து இப்போது இந்த கடிதம் எழுதும் வரை நான் பணிபுரியும் இந்த கிளை அலுவலகத்தில் ஒரு நாள் கூட காசாளராக பணிபுரிய என்னை தொழிற்சங்கத்தின் வற்புறுத்தலின் பேரில் நிர்வாகம் என்னை அனுமதித்தது இல்லை. தற்போது நான் தொழிற்சங்கத்திலிருந்து நல சங்கத்திற்கு வந்ததிலிருந்து என்னை காசாளராக பணிபுரிய நிர்வாகம் வற்புறுத்துகிறது. ஒரு குறிப்பிட்ட தொழிற்சங்கத்தின் தூண்டுதலின் பேரில் என்னை வற்புறுத்துவதும், தொடர்ந்து பயமுறுத்துவதும் எனக்கு மிகுந்த மன உளைச்சலை ஏற்படுத்தியுள்ளது. ஒரு அடிப்படை தூய்மை பணியாளர் பணியிலிருந்து வந்த என்னை அதிகாரத்தை பயன்படுத்தி கொடுமை செய்யும் தங்கள் மீதும், தூண்டுதலாய் இருப்பவர்கள் மீதும் SC/ST வன்கொடுமை தடுப்பு சட்டத்தின் கீழ் (இது அதிகாரத்தை துஷ்பிரயோகம் செய்யும் அதிகாரிகளுக்கும் பொருந்தும்) உரிய அதிகாரிகளிடம் புகார் செய்ய நேரிடும் என்பதை இதன் மூலம் தெரிவித்துக்கொள்கிறேன்.”

6. Thus, it can be seen that the appellant has alleged discrimination



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and *mala fide* and had threatened to complain under the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. When the employer thinks it fit that the employee is capable of performing the work and when the rules provide that the record clerks can also be in the officiating panel, merely because, the appellant was promoted as record clerk by dispensing with the requisite educational qualifications it cannot be said that the impugned circular would be bad in law. Similarly, when the appellant has accepted the promotion for the post of record clerk and is discharging duties of the said post, he cannot by way of insubordination totally refuse to perform the duties of the Cashier, which was only required of him officiating basis. If he has any difficulty, after assuming the seat, to work on day to day basis, he could have asked for the assistance or help from the superiors/co-employees and in a threatening manner, he insubordinated himself and therefore, now he is trying to take advantage of his own lack of qualification to challenge the circular and the charge memorandum.

7. In that view of the matter, there is no illegality whatsoever in the



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impugned circular as well as consequential charge memorandum and therefore, this appeal fails and accordingly, it is dismissed. However, there shall be no orders as to costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]

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NCC : Yes / No
Index:Yes/No
Internet:Yes/No
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