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W.P.No.6377 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.6377 of 2020

A.Andiappan

...Petitioner

-Vs-

1.The Principal Secretary to Government,
Commercial Taxes and Registration (A1) Department,
Secretariat,
Chennai – 600 009.

2.The Principal Secretary /
Commissioner of Commercial Taxes,
Chepauk,
Chennai – 600 005.

3.The Assistant Commissioner,
Commercial Taxes,
Commercial Taxes Office,
Dharmapuri District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, calling for the records relevant to the G.O.(D)No.249 dated 29.11.2019 and G.O.(D)No.605 dated 05.11.2013 passed by the first respondent by confirming the order in proceedings No.E1/235/2003 dated



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01.09.2008 passed by the second respondent and quash the same is illegal, improper against the law and natural justice and thereby direct the respondents to reinstate the petitioner in to his service with effect from 19.12.2002 and pay back all the service benefits to the petitioner immediately and pass such further orders.

For Petitioner : Mr.L.Chandrakumar
for Mr.B.Gopalakrishnan

For Respondents : M/s.Vasanthamala
Government Advocate

ORDER

This writ petition is filed for issuance of a Writ of Certiorarified Mandamus, calling for the records relevant to the G.O.(D)No.249 dated 29.11.2019 and G.O.(D)No.605 dated 05.11.2013 passed by the first respondent by confirming the order in proceedings No.E1/235/2003 dated 01.09.2008 passed by the second respondent and quash the same is illegal and thereby directing the respondents to reinstate the petitioner into his service with effect from 19.12.2002 and pay back all the service benefits to the petitioner immediately.

2. The case of the petitioner is that he was appointed as Office Assistant on 13.07.1964 and worked in the Commercial Taxes office,



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Dharmapuri District, which comes under the jurisdiction of Assistant commissioner (CT), the 3rd respondent herein. Thereafter, the petitioner was suspended from service by proceedings in Na.Ka.2124/2002/A1 dated 19.12.2002. A charge memo in RC.No.8124/02/A1 dated 30.10.2003 issued by the 3rd respondent by framing two charges against the petitioner under Rule 17(b) of TNCS (D&A) Rules. Thereafter, the petitioner gave detailed explanation for the charge memo issued by the 3rd respondent. Based on the inquiry report, the 2nd respondent called for an explanation vide Memo No.E1/235/2003 dated 14.07.2004. After receipt of the above said memo, the 2nd respondent passed the order of dismissal dated 01.09.2008 vide proceedings in No.E1/235/2003 by removing the petitioner from service. Against which, the petitioner preferred appeal before the 1st respondent on 23.12.2008 and his appeal was dismissed on 05.11.2013 vide G.O.(D)No.605 by confirming the order of the 2nd respondent dated 01.09.2008. Thereafter the petitioner filed revision before the 1st respondent on 17.05.2017 and the same was rejected by the 1st respondent on 29.11.2019, vide in his proceedings in G.O.(D)No.249 Commercial Taxes and Registration (1) Department. Aggrieved by which, the petitioner has filed this present writ petition.



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3. Learned counsel appearing for the petitioner would submit that a charge memo dated 30.10.2003 in Na.Ka.8124/ 2002/A1 was issued by the 3rd respondent by framing two charges against the petitioner under Rule 17(b) of TNCS (D&A) Rules. Based on which, the petitioner was suspended from service by proceedings in Na.Ka.2124/2002/A1 dated 19.12.2002. Thereafter the 3rd respondent issued a charge memo dated 30.10.2003 in Na.Ka.8124/2002/A1 under Rule 17(b) of Tamil Nadu Civil Service (Classification Control and Appeal) Rules. The petitioner gave his detailed explanation to the respondents. The respondents were not satisfied with his explanation and appointed inquiry officer, namely, Thiru.Karunakaran, Deputy Commissioner, Commercial Tax, Palacode on 03.12.2003 and he conducted the inquiry and gave an erroneous finding. The charges were proved without any supportive materials, records or evidence.

4. Based on the inquiry report, the 2nd respondent called the petitioner for an explanation vide Memo No.E1/235/2003 dated 14.07.2004. After receipt of the above said memo, the petitioner gave his detailed explanation along with affidavit of said Kannammal executed in August 2004. After receipt of the above explanation, the 2nd respondent without considering or



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discussing his explanation given before the inquiry officer as well as the 2nd respondent, passed the order of dismissal dated 01.09.2008 through his proceedings in No.E1/235/2003 by removing the petitioner from service.

5. Against which, the petitioner preferred an appeal before the 1st respondent on 23.12.2008. However, the 1st respondent sought an opinion from the Secretary, Tamil Nadu Public Service Commission and accordingly the Secretary, Tamil Nadu Public Service Commission gave an opinion vide Letter No.6708/DCD-D1 /2010-1 dated 19.07.2013. Based on the opinion given by the Secretary, Tamil Nadu Public Service Commission, the 1st respondent confirmed the order of the 2nd respondent dated 01.09.2008 and dismissed his appeal on 05.11.2013 vide G.O.D.No.605.

6. In the meanwhile, the Vigilance and Anti-Corruption Department charged offence against the petitioner under sections 13(1) and 13(2) of Prevention of Corruption Act 1988, and the same was tried before the Special Court / learned Chief Judicial Magistrate, Dharmapuri in Spl.C.C.No.11 of 2008. The charges were framed against the petitioner for accumulating wealth disproportionate to income and spending money on



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education of children born out of bigamy. The said case was conducted with a full-fledged trial and finally on 22.10.2016 judgment was passed and the petitioner was acquitted from the offences of above said charges.

7. It is pertinent to state that the said proceedings discussed in detail the amount of Rs.38,000/- spent on the children born through the alleged second wife. In the said judgment, the learned Chief Judicial Magistrate has discussed in detail and gave a finding that the said allegation is disproved. The departmental inquiry which culminated in dismissal by the respondents and the proceedings before the learned Chief Judicial Magistrate, Dharmapuri have overlapping facts and charges. The learned Chief Judicial Magistrate has also considered the incidental issue raised by the prosecution that the petitioner had committed the offence of bigamy. While dealing with the said issue, the learned Chief Judicial Magistrate came to the conclusion in Page No.51 of the said judgment that the prosecution has not proved the offence of bigamy by him with the said Kannammal. It is the duty of the prosecution to prove beyond a reasonable doubt that the petitioner was guilty of the charged offence.



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8. Under the said circumstances the learned Chief Judicial Magistrate held after due consideration of evidence both oral and documentary evidence let in by the prosecution, that the evidence is substantially the same as that which was dealt with by the inquiry officer in the departmental inquiry, which culminated in his dismissal by the 2nd respondent which was confirmed by the 1st respondent.

9. Learned counsel would contend that the judgment dated 22.10.2016 passed by the learned Chief Judicial Magistrate, Dharmapuri, having held that the alleged fact of the petitioner's second marriage during the lifetime of his wife has not been proved, considering the fact that the children of said Kannammal were no way connected with the petitioner. The Vigilance authority seeking permission from the 2nd respondent to initiate criminal proceedings against him for accumulation of the asset, including in the name of Kannammal, alleged that she is his second wife. Based on that, the 3rd respondent suspended the petitioner from service and issued the charge memo. As a result, the petitioner was removed from service. Now in the criminal case, the petitioner got acquitted. The charges framed against him in the departmental proceeding are the very same set of charges framed in the



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above said criminal case and full-fledged trial was conducted by the learned Chief Judicial Magistrate, Dharmapuri and he was acquitted. In the result, the charges are disproved. But the respondents based on the same set of charges, punished him by awarding major punishment removal from service, which is illegal and liable to be set aside.

10. After acquittal from the criminal case, the petitioner filed a revision before the 1st respondent on 17.05.2017 by raising all the points, including the judgment of criminal case and narrated that charges which are framed against the petitioner in the departmental proceedings. The very same set of charges were already discussed and decided by the competent Court of law that the charges are not proved. But without considering the grounds raised in the revision petition, the 1st respondent rejected the revision on 29.11.2019 vide in his proceedings in G.O.(D)No.249 Commercial Taxes and Registration (1) Department, in an mechanical manner.

11. Learned counsel further contended that in the petitioner's explanation it is clearly mentioned that the said Kannammal is wife of one Thiru.Velu, she was deserted by her husband. Their marriage was solemnized



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on 09.02.1979 that was never discussed at all in the impugned order and hence the impugned order is liable to be set aside. The 1st respondent passed the impugned order by stating that the alleged second marriage was proved. But there is no discussion or finding about on what date, on which place, in whose presence the petitioner's performed the alleged second marriage with the said Kannammal, at least on which year the petitioner performed the alleged second marriage, nothing was mentioned in the impugned order. They themselves presumed and assumed that and gave a finding that the said Kannammal is the second wife of the petitioner and passed the present impugned order, which is totally illegal and liable to be set aside.

12. On a fair reading of the entire inquiry proceedings and finding of the inquiry officers including the documentary and oral evidence, nothing was found against the petitioner that he performed the alleged second marriage with the said Kannammal. No piece of the paper speaks about the alleged second marriage of the petitioner with the said Kannammal. The petitioner's wife namely, Tmt.Saroja never gave any complaint against the petitioner for alleged second marriage before the respondents authority or any other competent authority and hence, the present impugned order is



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liable to be quashed.

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13. The judgment passed in Spl.C.C.No.11 of 2008 on the file of the learned Chief Judicial Magistrate, Dharmapuri by order dated 22.10.2016, the petitioner got acquittal and a gave finding that the petitioner's allegation of the second marriage with Kannammal was disproved and further allegation of the fees paid to the alleged second wife's children was also disproved and in the result the petitioner got acquittal. Against which no appeal was filed and hence the judgment attained finality.

14. The 1st respondent without discussing the 2nd respondent proceedings, sought an opinion from the Secretary, Tamil Nadu Public Service Commission, for deciding the appeal and revision. Without verifying or discussing the 2nd respondent proceedings, the 1st respondent disposed of the appeal as well as the revision based on the opinion of the Secretary, Tamil Nadu Public Service Commission and it is totally illegal and violation of the procedure and hence, the present impugned order is liable to be quashed.



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15. A counter affidavit was filed on behalf of the respondents dated 21.09.2021.

16. Learned Government Advocate appearing for the respondents would submit that based on the recommendation of the appropriate investigation authority against the petitioner and in view of his acquittal in Spl.CC.No.11 of 2008 on the file of the Special Court, Dharmapuri, the Principal Secretary / Commissioner of Commercial Taxes was instructed to initiate departmental disciplinary action against the petitioner vide G.O(2D)No.136, C.T & R Department dated 19.12.2002. As per that orders, Assistant Commissioner (CT), Dharmapuri issued charge memo against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and framed the following charges:-

குற்றச்சாட்டு எண்-1:

முதல் மனைவி திருமதி சரோஜா என்பவர் உயிருடன் இருக்கும்போது முதல் மனைவியின் ஒப்புதல் பெறாமலும், ஆரசின் உரிய துறைக்கு தெரிவிக்காமலும், இரண்டாம் மனைவியாக திருமதி கண்ணம்மாள் என்பவரை திருமணம் செய்து கொண்டுள்ளது 1973ம் ஆண்டு தமிழ்நாடு அரசு பணியாளர் நடத்தை விதிகளின் விதி 19ன் படி றற்கும்கூரா.

குற்றச்சாட்டு எண்-2:

தமது வருவாய் மூலம் இரண்டாம் மனைவி திருமதி கண்ணம்மாள் ஆண்டியப்பனின் குழந்தைகளாகிய செல்வன் ஆ.குட்டிமணி மற்றும் செல்வன் ஆ.தனஞ்செயன் ஆகியோரின் கல்விச் செலவுக்கு 1992-93ம் ஆண்டு முதல் 2000-2001ம் ஆண்டுவரை ரூ.38,860/- தருமபுரி ஸ்ரீ விஜய் வித்யாலயா பள்ளிக் கட்டணமாக செலுத்தியுள்ளது.



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17. The petitioner has given his consent letter for nominating Tmt.A.Saroja as the nominee of his General Provident Fund on 26.07.1974.

This form is one of the pieces of evidence relating to the charges framed against the individual. Further, in his letter dated 03.11.2003, he indicates that Kannammal Andiyappan is the Mother of their school student Selvan.A.Kuttimani and A.Dhananjeyan given by the principal of Sri Vijay Vidhyalaya Matriculation Higher Secondary School was also another piece of evidence relating to this case. While attending inquiry, Thiru A.Andiyappan, formerly Office Assistant had explained before the then Deputy Commercial Tax Officer, Palacode that his wife's name is A.Saroja.

18. Learned Government Advocate further submitted that Thiru.A.Andiyappan had refused the charge No.1 in his explanation dated 28.11.2003 and 16.12.2003 that he did not marry Kannammal without getting permission from first wife, Tmt.Saroja while she is alive and also without intimating to the Department.

19. In respect of charge 2, the petitioner has stated that the school fees Rs.38,800/- paid for the children is considered as out of source from his



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salary. In this regard, the details regarding his salary, stock of amount has received by the eligible officer and excess income to be determined and given to him. He did not have excess assets more than his salary. He also declared that the school fees were incurred by the children's grandmother and maternal uncles. Besides his wife was doing milk business. This amount was not paid by petitioner out of his salary. The Petitioner had refused that he did not marry Kannammal and the both Selvan.Kuttimani and Selvan.A.Dhananjeyan children are of Tmt.Kannammal and not of the petitioner, namely, Andiyappan.

20. The Government have carefully and independently examined the appeal filed by the petitioner and have decided to accept the view of the Tamil Nadu Public Service Commission and accordingly rejected the appeal of the individual as devoid of merits and confirmed the punishment of "dismissal from service" upon the petitioner in G.O.(D) No.605, Commercial Taxes and Registration (A1) Department, dated 05.11.2013. Subsequently, the petitioner sent a petition on 17.05.2017 to Government for reconsidering the punishment imposed on him, in the light of certain observations made by the learned Chief Judicial Magistrate, Special Court, Dharmapuri in



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Spl.C.C.No.11 of 2008 and in view of his acquittal in the said case.

However, the learned Chief Judicial Magistrate has not dealt with the issue of bigamy in detail, as the case framed by the DV&AC is primarily against the individual for acquiring wealth beyond his known sources of income, in page 55 of the judgment, a few lines appear favouring the individual against the accusation of bigamy committed by him. The order says -

".....கண்ணம்மாள் 2வது மனைவி என்பதையும் தனஞ்செயன் மகன் என்பதையும் அரசு தரப்பில் நிரூபிக்கப்படாத நிலையில் கண்ணம்மாளுக்கு செலவிட்டதாக சொல்லும் கணக்கும் தனஞ்செயனுக்கு செலவு செய்ததாக சொல்லும் கணக்கும் ஏற்றுக் கொள்ளக் கூடியதாக இல்லை."

The disciplinary action was initiated against the individual based on DV&AC's report in DE 64/2000/CT/DP dated 05.06.2002. The report apart from the allegation against the individual of acquiring assets disproportionate to his known sources of Income during the period between January 1992 to November 2000, highlights that the individual married one Tmt.Kannammal as second wife, when the first wife Tmt.Saroja is alive and requested this department to initiate necessary disciplinary action against him and hence disciplinary action was initiated against him and was awarded the major penalty of 'Dismissal from service' vide PS/CCT's proceedings No.E1/235/2003, dated 01.09.2008.



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21. In the counter affidavit it is stated that apart from the above questionable information provided by the school authorities, **there are other evidences that dilute the charges against the charged official. They are -**

- a) The wedding invitation of Tmt. K.Kannammal with Thiru.S.Velu submitted by the defence.
- b) The affidavit filed by Tmt.K.Kannammal, wherein she has declared that she is the wife of Thiru.S.Velu and their marriage took place on 09.02.1979; that they have a son named Dhananjeyan; that her husband left her after a family tussle; she has been wrongly linked with Thiru A.Andiappan who had helped her in admitting her son in school and that she has no relationship either physical or marital with Thiru.A.Andiappan.
- c) Copies of Transfer certificates in respect of Tmt.K.Kannammal obtained from school and college that shows that she was a resident of Veerapandi, Salem.
- d) The loan she availed in 1986 from Veerapandi Uzhavar Finance, Veerapandi, Salem.
- e) No complaint filed by Tmt.A.Saroja, wife of Thiru.A.Andiappan or her relatives against the alleged A.Andiappan with second marriage of Tmt.K.Kannammal.
- f) The major penalty was imposed on the petitioner as the merits of the case at that point of time. In the light of certain observation made in the court's order, the 2nd respondent has requested that the Government may take an appropriate decision on the strength of material evidence.**

22. It is further submitted that the charges pertaining to the delinquent officer was that he married one Tmt.Kannammal as second wife, i.e.,



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bigamous marriage and spending money on the education of children born out of bigamy are proved against the petitioner Thiru A.Andiappan, formerly Office Assistant based on documentary evidences. The inquiry officer has submitted the report after inquiry and held both the charges as proved and the Principal Secretary/Commissioner of Commercial Taxes has also agreed to the same and imposed the major punishment of "Dismissal from Service" upon him. The delinquent officer has preferred appeal before the Government and that was also rejected by the Government. The petitioner in his petition has not provided any documentary evidence in support of his innocence so as to reverse the decision of the disciplinary authority.

23. Heard both sides and perused the materials available on record.

24. In the instant case, he 3rd respondent framed two charges against the petitioner under Rule 17(b) of TNCS (D&A) Rules, reads as follows:

குற்றச்சாட்டு எண்-1:

முதல் மனைவி திருமதி சரோஜா என்பவர் உயிருடன் இருக்கும்போது முதல் மனைவியின் ஒப்புதல் பெறாமலும், அரசின் உரிய துறைக்கு தெரிவிக்காமலும், இரண்டாம் மனைவியாக திருமதி கண்ணம்மாள் என்பவரை திருமணம் செய்து கொண்டுள்ளது 1973ம் ஆண்டு தமிழ்நாடு அரசு பணியாளர் நடத்தை விதிகளின் விதி 19ன் படி றற்கும்குரா.



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Explanation:

In the GPF information declaration which the petitioner gave on 26.07.1974. The petitioner have indicated the name of his wife, A.Saroja. Again, the declaration dated 15.02.1979, the petitioner nominated his wife Tmt.A.Saroja to receive GPF amount that may stand to his credit in the event of his death. Therefore, it is well settled that his wife is Tmt.A.Saroja and none else. The petitioner never made any reference to Tmt.A.Saroja as his "First Wife" and this issue has no relevance to the article of charge. The inquiry officer has elaborated about this irrelevant issue just to uphold the stand taken by the prosecution.

The inquiry officer turns the table on the petitioner by referring to what he said in his defense statement and in the oral deposition regarding his acquaintance with Tmt.Kannammal. The said Tmt.Kannammal was married one Thiru.S.Velu on 09.02.1979, her husband deserted her and left in dire state. As this lady happened to be a good friend of his wife she requested the petitioner to help her and he obliged. This is interpreted as matrimonial status existing between the petitioner and Tmt.Kannammal, the three letters dated 11.03.2002, 14.03.2002 and 03.11.2003 obtained by the investigating agency from the principal of the Sri Vijay Vidhyala Matriculation Higher Secondary School, Pennagaram Road, Dharmapuri speak only about the expenditure incurred on the two sons viz., A.Dhananjayan and A.Kuttimani of Tmt.Kannammal. In this context it is to be determined whether the contents of three letters can form a legal basis. Record as to infer or attribute a relationship between the delinquent and Tmt.Kannammal as husband and wife. The crux of the issue can be analyzed only by going through the records relating to admission in the school. It is alone the vital documents that could prove the paternal relationship of citizen viz A.Dhananjayan and A.Kuttimani. Moreover in case the delinquent is held to have married the above Tmt.Kannammal it will be upon the prosecution to make further inquiries and established that the marriage took place without the consent of his wife Tmt.A.Saroja as alleged in the charge memo. But, the charge is held by the inquiry officer to have been proved without looking into this aspect



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of the charge itself.

Time and again the petitioner have expressed that Tmt.Kannammal was not married to him. In the annexure to the charge memo the names of witnesses or documents. If any evidencing his marriage with the above Tmt.Kannammal are not given. Therefore, the petitioner have been denied of the opportunity to cross examine the witnesses, to prove his innocence. The inquiry officer had in his findings, categorically stated that the petitioner have not produced any witness from his side. This is unusual and unwarranted. It is the duty of the prosecution to refer to the records and to list out the name of the witnesses. Had the petitioner been given an opportunity. He could have produced his wife, Tmt.Saroja and the alleged 2nd wife, Tmt.Kannammal and other relatives before the inquiry officer and proved that this allegation is not correct. This did not happen as a result of the improper and partial inquiry. On the contrary the petitioner has been victimized on presumptions.

குற்றச்சாட்டு எண்-2:

தமது வருவாய் மூலம் இரண்டாம் மனைவி திருமதி கண்ணம்மாள் ஆண்டியப்பனின் குழந்தைகளாகிய செல்வன் ஆ.குட்டிமணி மற்றும் செல்வன் ஆ.தனஞ்செயன் ஆகியோரின் கல்விச் செலவுக்கு 1992-93ம் ஆண்டு முதல் 2000-2001ம் ஆண்டுவரை ரூ.38,860/- தருமபுரி ஸ்ரீ விஜய் வித்யாலயா பள்ளிக் கட்டணமாக செலுத்தியுள்ளது.

Explanation:

This charge is vague, paying school fees and other expenditure towards the education of a child will not automatically mean that the person incurring such expenses is the father or mother of the given child. On this score, the expenditure incurred from 1992-93 to 2000-2001 to the tune of Rs.38,860/- cannot become illegal or without source. This allegation is also baseless and it is not substantiated by inquiries/records. Moreover the amount was not an one time payment and it was spread over a period of 9 years. The inquiry officer had made a dirty mess in holding this charge also as proved.



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25. There is no documentary evidence or oral evidence to prove that the petitioner delinquent has married Kanammal when the 1st wife, A.Saroja is alive. There is no documentary evidence, like wedding card or registration of marriage, to prove it. In regard to the second charge, though the delinquent from the source had income paid since the expenditure incurred from 1992-93 to 2000-2001 to the tune of Rs.38,860/- for which only the DVAC case has been initiated in Spl.C.C.No.11 of 2008 on the file of the learned Chief Judicial Magistrate, Dharmapuri, and the same is ended in acquittal since the charges were not proved beyond reasonable doubt by order dated 22.10.2016.

26. In the counter affidavit, the authorities themselves have admitted that there are other evidences that dilute the charges against the charged official, which are as follows:

- 1. The wedding invitation of Tmt.K.Kannammal with Thiru.S.Velu submitted by the defence.**
- 2. The affidavit filed by Tmt.K.Kannammal, wherein she has declared that she is the wife of Thiru.S.Velu and their marriage took place on 09.02.1979; that they have a son named Dhananjeyan; that her husband left her after a family tussle; she has been wrongly linked with Thiru**



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A.Andiappan who had helped her in admitting her son in school and that she has no relationship either physical or marital with Thiru A.Andiappan.

- 3. Copies of Transfer certificates in respect of Tmt.K.Kannammal obtained from school and college that shows that she was a resident of Veerapandi, Salem.**
- 4. The loan she availed in 1986 from Veerapandi Uzhavar Finance, Veerapandi, Salem.**
- 5. No complaint filed by Tmt.A.Saroja, wife of Thiru.A.Andiappan or her relatives against the alleged A.Andiappan with second marriage of Tmt.K.Kannammal.**
- 6. The major penalty was imposed on the petitioner as the merits of the case at that point of time. In the light of certain observation made in the court's order, the 2nd respondent has requested that the Government may take an appropriate decision on the strength of material evidence.**

27. The above two charges were already decided. In regard to the first charge, the learned Chief Judicial Magistrate has given a finding as stated supra. The second charge has been clearly decided by the learned Chief Judicial Magistrate in the above order dated 22.10.2016 by taking into consideration the materials, evidence and witnesses on record and had come to the conclusion that the charges against the petitioner were not proved beyond reasonable doubt and acquitted the petitioner in the above said charges by order dated 22.10.2016.



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28. The contention of the respondent is that in the school certificate dated 03.11.2003, wherein it is stated that Kannammal Andiyappan is the Mother of their school student Selvan.A.Kuttimani and A.Dhananjeyan given by the principal of Sri Vijay Vidhyalaya Matriculation Higher Secondary School. It does not mean that they are the children of the said Kannammal, who is said to have been married by the petitioner as a second wife during the lifetime of the first wife, namely, A.Saroja. Hence the above contention is unsustainable and untenable in law.

29. It is also pertinent to note that in the provident fund nominee, the petitioner has given the name of the first wife and the same is admitted in the counter affidavit filed by the respondent. He has included his wife, A.Saroja as nominee.

30. In regard to payment of school fees, for which the DVAC action was initiated, apart from the allegation that individually the expenditure incurred from 1992-93 to 2000-2001 to the tune of Rs.38,860/- is said to have been allegedly paid by the petitioner for



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school students, namely, Selvan.A.Kuttimani and A.Dhananjeyan. All these issues has been examined and dealt with by the Criminal Court and the same has ended in acquittal.

31. For the above reasons, facts and circumstances of the case, this Court is of the considered view that G.O.(D)No.249 dated 29.11.2019 and G.O.(D)No.605 dated 05.11.2013 passed by the first respondent by confirming the order in proceedings No.E1/235/2003 dated 01.09.2008 passed by the second respondent is liable to be set aside. Accordingly, the same is hereby quashed.

32. The respondents are directed to reinstate the petitioner into his service with effect from 19.12.2002 and pay back all the service benefits to the petitioner within a period of three months from the date of receipt of a copy of this order.

In the result, the writ petition stands allowed with the above observations and direction. No costs.

06.12.2024

cda

Index : Yes

Speaking order

Neutral Citation : Yes



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To

- 1.The Principal Secretary to Government,
Commercial Taxes and Registration (A1) Department,
Secretariat,
Chennai – 600 009.
- 2.The Principal Secretary /
Commissioner of Commercial Taxes,
Chepauk,
Chennai – 600 005.
- 3.The Assistant Commissioner,
Commercial Taxes,
Commercial Taxes Office,
Dharmapuri District.



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J.SATHYA NARAYANA PRASAD, J.

cda

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06.12.2024