



W.P.No.12577 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 14.12.2023
Pronounced on : 5.6.2024

C O R A M

The Hon'ble Dr.Justice **D.NAGARJUN**

Writ Petition No.12577 of 2014
and
M.P.No.1 of 2014

D. Murugan

... Petitioner

Vs

1. The Presiding Officer
Labour Court
Salem 636 007.

2. The Management of Tamil Nadu
State Transport Corporation Ltd
(Salem Division - II)
Bharathipuram
Dharmapuri 636 705
Dharmapuri District.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus to call for the records from the first respondent relating to the Award made in I.D.No.180 of 2006 dated 13/2/2013 and quash the same and direct the second respondent to reinstate the petitioner with continuity of service and backwages and other attendant benefits.

For petitioner : Mr.S.Ayyadurai



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For respondents : Labour Court - for R.1
Mr.R.Babu for R.2

ORDER

This writ petition has been filed to quash the Award dated 13/2/2013 made in I.D.No.180 of 2006 dated 13/2/2013 by the first respondent and direct the second respondent to reinstate the petitioner with continuity of service and backwages and other attendant benefits.

2. Brief facts that are necessary for the disposal of this writ petition are as follows:-

2.1. The petitioner joined the service of the second respondent Transport Corporation on 17/5/1997. On 24/3/1999, he was issued with a charge memo on the ground that he has submitted bogus educational certificates. On 5/4/1999, the petitioner asked for some time to submit his explanation. Thereafter, the petitioner submitted a representation on 7/4/1999 to the District Educational Officer and the Head Master, requesting not to take further action till the outcome of his representation. But without considering the same, the Management dismissed him from service on 16/6/1999. Being aggrieved, the petitioner



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has filed I.D.No.180 of 2006, on the file of the Labour Court, Salem. Vide, order, dated 13/2/2013, the Labour Court, Salem, has dismissed the I.D.

Hence, the petitioner has come forward with the instant writ petition praying for the relief as stated therein.

3. In the counter filed before the Labour Court, the Management has stated that the employees were appointed on condition that the Management have got power to terminate their service later, if their certificate s were found fake. In the letter of the District Educational Officer, it was found that the certificate of the petitioner was fake. Even though sufficient time was given to the petitioner to submit his explanation, he did not submit the same. Hence, the action of the Management was not illegal.

4. Heard Mr.S.Ayyadurai, learned counsel for the petitioner and Mr.R.Babu, learned counsel for the second respondent.

5. The short point that falls for consideration in this writ petition is whether the termination of the petitioner without conducting the



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enquiry can be approved. The petitioner studied upto 9th standard (incomplete) and was doing agricultural work. He got heavy vehicle driving license and also registered with the District Employment Exchange in the year 1988. In the month of February 1997, his name was sponsored for appointment as Driver trainee in the second respondent Corporation. His services were confirmed in the month of October 1998. On 24.03.1999, barely after 5 months of confirmation of this services, the petitioner has received show cause notice from the second respondent Corporation that the petitioner has submitted intentionally bogus educational certificate and joined the services and as per the second respondent Corporation it amounted to mis conduct as per model standing order 16 (c) and thereby, it is mentioned in the show cause notice why the petitioner cannot be dismissed from service. The petitioner requested for two months time for submitting his explanations. The petitioner stated to have approached the District Educational Officer (DEO) and he has informed the petitioner that he would send the report directly to the second respondent Corporation. The petitioner further sent a letter dated 05.05.1999 to the second respondent requesting for further time. However, by order dated 16.06.1999, the petitioner was dismissed from service basing on the letter of the District Educational Officer dated 23.12.1998.



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6. It is submitted by the learned counsel for the petitioner that no enquiry was conducted to prove the petitioner's mis conduct regarding the submission of bogus certificates. It is further submitted that that unless alleged bogus certificate is canceled in the manner it is required to be canceled, the petitioner should not have been terminated from service. The petitioner has raised industrial dispute and settlement failed, failure report was submitted and finally, the petitioner raised I.D.No.180 of 2006. After full fledged enquiry, the Labour Court by order dated 13.02.2013 dismissed the I.D. The question therefore is that whether the termination of the petitioner without conducting any enquiry is proper.

7. The petitioner herein, on going through the entire materials before the Labour Court has not taken plea that the certificates submitted by him before the second respondent Corporation is not bogus. The petitioner has taken defense that the certificates furnished by him should have been canceled by following the procedures and that enquiry should have been conducted prior to his dismissal. The defense of the petitioner indicates that the documents submitted before the second respondent Corporation are not genuine to determine as to whether the



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certificates produced by the petitioner are original are not. The letter of the

District Educational Officer dated 23.12.1998 is crucial.

8. The learned counsel for the petitioner has filed a copy of the letter stated *supra* to show that the transfer certificate of the petitioner submitted before the second respondent Corporation was verified with the records of the Government Boys Higher Secondary School, Harur by the Head Master and confirmed that the petitioner has not studied in that school. The petitioner is not contradicting the letter of the District Educational Officer (DEO). Therefore, on the basis of the same the District Educational Officer itself has concluded that the certificates produced by the petitioner is not genuine.

9. The law in respect of conduct of enquiry, in respect of submission of bogus certificates for confirming the employment is very much settled. If the certificates filed by the employee are found to be bogus and basing on the bogus certificates if the employment was obtained, in such circumstances, the Department is not under the obligation



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to conduct any enquiry by following the conduct rules. The petitioner by way of bogus certificate has obtained employment and in fact he has deprived employment to the eligible person. Therefore, in such circumstances, it cannot be said that the second respondent Corporation should have conducted enquiry by following due process.

10. The learned counsel for the petitioner has place reliance on authority reported in **(2003) 4 Supreme Court cases 579**, the relevant portion of which is extracted hereunder:

“12.It is fairly well settled that the power to dismiss an employee by dispensing with an enquiry is not be exercised so as to circumvent the prescribed rules. The satisfaction as to whether the facts exist to justify dispensing with enquiry has to be of the disciplinary authority. Where two views are possible as to whether holding of an enquiry would have been proper or not, it would not be within the domain of the Court to substitute its view for that of the disciplinary authority as if the Court is sitting as an appellate authority over the disciplinary authority. The contemporaneous circumstances can be duly taken note of in arriving at a decision whether to dispense with an enquiry or not. What the High Court was required to do was to see whether there was any scope for judicial review of the disciplinary authority's order dispensing with enquiry. The focus was required to be on the impracticability or otherwise of holding the enquiry.”



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11. The learned counsel for the petitioner has also circulated

another judgment dated **18.07.2011** in **W.A.Nos.644 to 653 and batches**, the

relevant portion is extracted below for better appreciation:

“23.As has been observed by us supra, the appellant have put in 15 years of service gathered by the respondents behind the back of the appellants from the District Educational Officer/Assistant Educational officer of The employees have been the District to which they belong sponsored by the respective Employment Exchanges and have undergone the selection process of the respondents only prima facie satisfying with the educational qualification possessed by the appellants, the respondents have appointed the appellants in the post of Driver, but qualification failed to verify the genuineness of their educational without any delay or at least within the prescribed period of two years i.e., before the employees' completing their probation period. But, have resorted to the action only after a lapse of six years on the ground of production of bogus certificates. Though some of the appellants have requested the respondent Corporation to supply the Educational the Assistant the opinion obtained from copies of to furnish the same the respondents having refused Officer, proceeded further with the enquiry and thereafter issued the show cause notice after forming an opinion to dismiss them from service. rightly contended by the learned counsel for the appellants, once the respondent Corporation has formed the opinion to dismiss the appellants from service, giving explanation to the show cause notice is nothing but an empty formality and it is not open to the respondents Corporation to argue that the appellants have produced bogus educational certificates, at the belated stage. Though the respondent contended that learned counsel for the availability of alternative remedy, we hold that it cannot be taken as a ground after a lapse of 15 years, which would amount to depriving their right to livelihood, particularly in view of the fact that some of the appellants have already



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approached the Labour Court, but proceedings could not be completed for various reasons, Therefore, in the including the order of stay passed by this Court. Therefore interest of justice and taking into consideration the provisions of Directive Principles of Stater provided unto equip with the economicthe Constitution of viability to provide employmentopportunity to the unemployed and further taking into account the considerable length of service rendered by the appellants, we holdthat it is not a fit accordingly,case toProceed against the appellants andthe entire proceedings of the respondent Corporation against the appellants, including the order passed byJudge areaction ofset aside.By this, we are not justifying the alleged the employees producing bogus educational certificates; but only the illegal way in which the things are dealt with by the as discussed above, that too with an inordinate and unexplained delay, has driven us to the irresistible conclusion of setting aside the impugned order passed by the respondent.”

12. In the above referred judgment, taking into consideration of the fact that the appellant therein has put 15 years of service, this Court has taken a lenient view in favour of the appellant. However, in this case on hand, the petitioner hardly worked for 5 months from the date of conformation of his service. As already observed, the certificates submitted by the petitioner are not genuine. Therefore, the authorities submitted by the petitioner are not helpful to this case.



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13. The learned counsel for the respondent has cited an authority in *W.A.630 and 486 of 2023* dated *20.03.2023* wherein in a similar case, the orders of the Single Judge was passed in favour of the employee, appeal was allowed and orders of the Single Judge was set aside. In the said case, the petitioner was dismissed from service without conducting any enquiry.

14. In view of the above, the Labour Court has come to a right conclusion and dismissed the I.D. raised by the petitioner. The orders of the Labour Court are not perverse and are well reasonable. Therefore, no interference is required.

15. Accordingly, this writ petition is dismissed.
Connected M.P.is closed. Costs made easy.

5/6/2024

vca

Index	:	Yes/No
Internet	:	Yes/No
Citation	:	Yes/No



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Dr.D.NAGARJUN,J

mvs/vca



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Pre-delivery order made in
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