

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.728 of 2015

The District Revenue Officer / Collector,
DS 8, Subramania Siva Co-operative Sugar Mills Ltd.,
Gopalapuram, Alapuram Post,
Pappireddipatti Taluk,
Dharmapuri District-636 904. .. Appellant

Vs.

1.C.Jayaraj
2.The Director of Sugars,
690, Anna Salai, Nandanam,
Chennai-35. ... Respondents

This writ appeal is preferred under Clause 15 of Letters Patent against the order dated 08.09.2014 passed in W.P.No.29250 of 2012.

w.P.No.29250/2012:

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, directing the respondents to provide job to the petitioner by reinstating him to the Sugar Mills Limited of the 2nd respondent and also to provide him all backwages and other monetary benefits that accrues to the petitioner.

For Appellant : Mr.S.Ilamvaludhi
for M/s.Malarvizhi Udayakumar

For Respondents : Mr.M.V.Balakrishnan for R-1

JUDGMENT

(The Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant intra-court appeal is directed against the order dated 08.09.2014 made in W.P.No.29250 of 2012, whereunder the writ petition, seeking a direction to the respondents to provide a job to the petitioner by reinstating him in service of the second respondent with all backwages and other monetary benefits, was allowed.

2. The facts in nutshell are that the writ petitioner, while working as security guard in the second respondent Sugar Mills, was served with the charge sheet on 14.09.2005 on two counts. Firstly, the writ petitioner remained absent from duty without prior permission and prior notice and secondly, on the ground of conviction by a criminal court. By the said proceedings, the writ petitioner was dismissed from service with effect from 27.4.2005. Indisputably, no enquiry was held in respect of the first charge of remaining absent. In respect of the second charge of conviction by the criminal court under the provisions of Section 304(2) IPC and further sentencing him to undergo rigorous imprisonment for five years and also to pay a fine of Rs.2000/-, in default to undergo three months simple imprisonment, it was set aside in the appeal, being Criminal Appeal No.399 of 2005 preferred by the writ petitioner, by order dated 19.1.2012. Thus, the writ petitioner was acquitted of the criminal charge. During the pendency of the writ petition, the petitioner had reached the age of superannuation.

3. The learned Single Judge, relying on the provisions of Clause 34(2)(c) of the Standing Orders, whereunder it was stipulated that a workman can be removed from service without any enquiry if a criminal case ends in conviction, directed reinstatement, holding that in the criminal case, the writ petitioner was exonerated in the criminal appeal. Thus, the charge of conviction did not survive. So far as the next charge of staying away from work without permission or prior notice is concerned, no departmental enquiry was held. Thus, the self framed charges could not have been taken as conclusive for the purpose of removing the writ petitioner from service.

4. We have heard the learned counsel for the parties and perused the pleadings and documents appended thereto.

5. In view of undeniable and indisputable facts, as aforesaid, we do not find any reason to take a contrary view. The writ petitioner was charge sheeted on two counts. The first charge of remaining absent was never proved in a proper enquiry. The second charge of conviction in the criminal case was set aside in the criminal appeal and as such, there was no charge subsisting to continue the removal of the writ petitioner. Accordingly, the learned Single Judge has rightly directed to provide wages from the date of removal till the date of his superannuation and thereafter granted other incidental benefits.

6. In view of the foregoing, the writ appeal stands dismissed. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

vvk

To

1.The Director of Sugars,
690, Anna Salai, Nandanam,
Chennai-35.

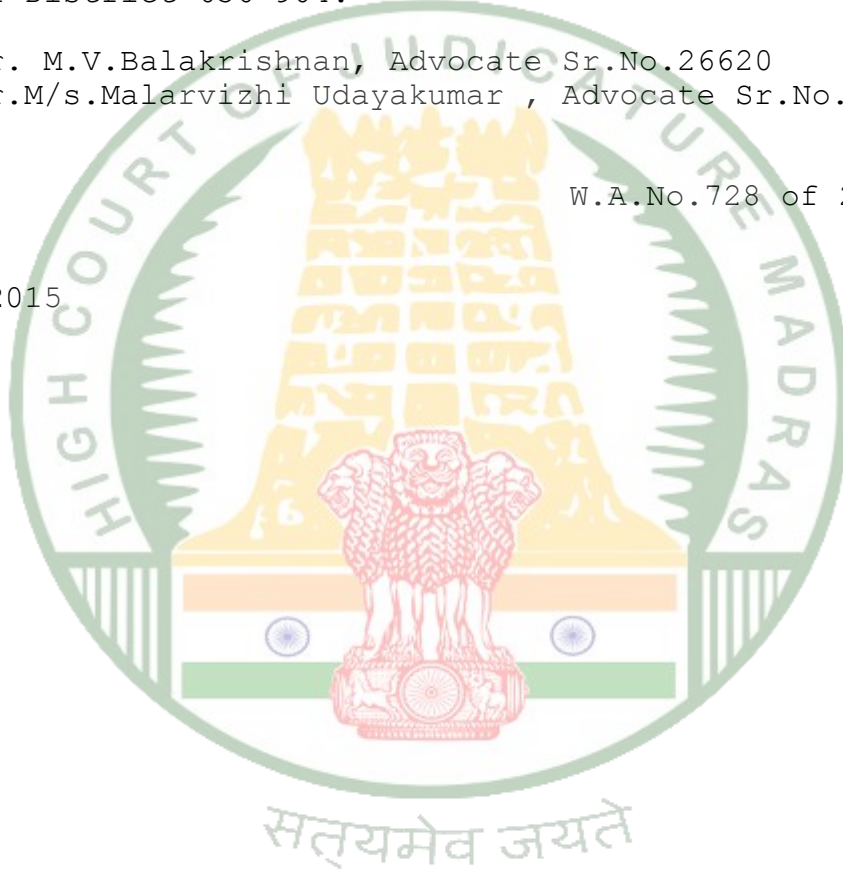
2.The District Revenue Officer / Collector,
DS 8, Subramania Siva Co-operative Sugar Mills Ltd.,
Gopalapuram, Alapuram Post,
Pappireddipatti Taluk,
Dharmapuri District-636 904.

1 cc to Mr. M.V.Balakrishnan, Advocate Sr.No.26620

1 cc to Mr.M/s.Malarvizhi Udayakumar , Advocate Sr.No.26835

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