

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2015

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.NO. 29251 OF 2014(T)
(O.A. No. 7452 of 2001)

M. Sudalai

.. Petitioner

Vs.

1. The District Collector
Tirunelveli
Tirunelveli District.
2. The Executive Officer
Panagudi Town Panchayat
Panagudi, Radhapuram Taluk
Tirunelveli District.

.. Respondents

PRAYER: This Writ Petition came to be numbered under Article 226 of the Constitution of India by way of transfer of O.A. No.7452 of 2001 from the file of Tamil Nadu Administrative Tribunal with a prayer to call for the records pertaining to the order passed by the 2nd respondent in his proceedings Na.Ka. No. 129/2001 dated 12.11.2001 and set aside the same and direct the respondents to reinstate the Petitioner in service with all the consequential benefits.

For petitioner : Mr. P. Ganesan
For respondents : Mr. M.E. Rani Selvam, AGP for R1
No Appearance for R2

O R D E R

This Writ Petition has been filed challenging the impugned order of Termination dated 12.11.2001 passed by the Executive Officer, Panagudi Town Panchayat, Tirunelveli District, on the ground that the petitioner, who had passed his 10th Standard in the year 1987 and also ITI Wireman Certificate on 24.11.1999, was appointed through Employment Exchange as Electrician on 29.05.2001. The Executive Officer, Panagudi Town Panchayat, the second respondent herein, only on the basis of the Collector's proceedings, without issuing notice or calling for explanation whatsoever from the petitioner, terminated the services of the petitioner. It is against the principles of natural justice. When the Collector had instructed to cancel the

appointment of the petitioner, the second respondent before acceding to the demand of the Collector should have afforded atleast a reasonable opportunity of being heard. When the Collector had indicated for termination of the services of the petitioner who was appointed through employment exchange, except referring with the Collector's instructions to cancel the appointment of the petitioner, no reason whatsoever has been shown in the impugned order, therefore, the petitioner who was appointed as Electrician on 29.05.2001 had suffered the impugned order of termination dated 12.11.2001 approached the learned Tamilnadu Administrative Tribunal. Accepting that there was no any notice whatsoever given and apparently there was violation of principles of natural justice in passing the order of termination, the learned Tribunal granted an order of stay of the termination order. By virtue of the same the petitioner is still now continuing.

2. Further it was submitted that similarly placed persons namely, Mr. S. Balakrishnan, S. Nagoormeeran, S. Somasundaram, E. Arumugham, M. Madhavan, A. Sivakumar, G. Madhavan, R. Arumugham, V. Kannan and R. Kalimuthu appointed in Achanputhur, Alwarkurichi, Aaykudi, Gopalasamudram, Yervadi, Pathamadai, Royagiri, Sundarapandiyapuram, Kallidaikurichi and Thiruvengadam respectively, which are the Special Grade Town Panchayats of Tirunelveli Division are given the benefits of time scale of pay from consolidated pay. Hence, the respondents cannot continue to pay the same consolidated pay. It was also further stated that all of them have been regularised even in 2006, by proceedings Na.Ka. No.3051/2006/A3 dated 26.07.2006 by the Director of Town Panchayat, Tirunelveli District. On this basis prayed for allowing the Writ Petition.

3. No counter affidavit has been filed. Learned Additional Government Pleader appearing for the respondents also submitted that as per the proceedings dated 26.07.2006 issued by the Director of Town Panchayat, Tirunelveli, all those 10 similarly placed persons who were appointed like that of the petitioner as Electrician, Wireman and Lineman were given the time scale of pay.

4. When the petitioner was appointed as an Electrician on 29.05.2001 through employment exchange, on having possessed the requisite qualification namely 10th standard and ITI, prima facie the second respondent, the Executive Officer, Panagudi Town Panchayat, Tirunelveli District had issued the order of termination on the basis of the Collector's Proceedings, without giving any notice whatsoever to the petitioner. Finding the infirmities, learned Tamilnadu Administrative Tribunal also granted an order of stay of operation of the impugned order of termination. By virtue of the same, the petitioner has been allowed to work till now from 2008. That apart, one another proceedings dated 26.07.2006 issued by the Director of Town Panchayat, Tirunelveli in Na. Ka. No.3051/2006/A3 shows that 10

of the similarly placed persons appointed in the posts of Wireman, Electrician and Lineman in various Special Grade Panchayat Unions have been given the benefit of regularisation and also paid with the time scale of pay, upgrading their scale of pay from consolidated pay. The learned Tribunal has stayed the impugned order as there was no notice whatsoever, issued to the petitioner since it violated the principles of natural justice, hence, this Court making the order of stay dated 23.11.2001, absolute hereby directs the second respondent to regularise the services of the petitioner and extend the benefit of fixing time scale of pay on par with the other similarly placed persons, mentioned above.

5. In view of the above, the Writ Petition is allowed and the impugned order of the Executive Officer, Panagudi Town Panchayat, Tirunelveli District, 2nd respondent in proceedings Na.Ka. No. 129/2001 dated 12.11.2001 is set aside. No order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

avr
To

1. The District Collector
Tirunelveli
Tirunelveli District.
2. The Executive Officer
Panagudi Town Panchayat
Panagudi, Radhapuram Taluk
Tirunelveli District.

1 cc to Mr. C.S.Associates, Advocate, SR.No.1126
1 cc to Government Pleader, Sr.No1226

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