

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 20.4.2016

CORAM

THE HONOURABLE MR.JUSTICE SATISH K.AGNIHOTRI
AND
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Appeal No.100 of 2015

T.R.Venkatesan

Appellant/Petitioner

Vs.

1.The Director of Animal Husbandry,
Anna Salai, Chennai 600 006.

2.The Regional Joint Director
of Animal Husbandry,
Gandhi Nagar,Vellore,
North Arcot Ambedkar District.
(Now, Vellore District).

3.The Deputy Director of
Animal Husbandry,
Sheep Farm (EEC),
Mugandarayapuram,
North Arcot Ambedkar District.
(Now, Vellore District)

Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 24.11.2008 made in W.P.No.28851 of 2006. Writ Petition come to be numbered under Article 226 of constitution of India by way of transfer of O.A.No.7313 of 1996 from the TamilNadu administrative Tribuna praying for a writ of certiorarified Mandamus, to call for the connected records in Pro.R.No.893/A/95-1 dated 31.7.95 of the 3rd respondent and quash the same and consequently to reinstate the petitioner in service with backwages and to direct the 2nd respondent to regularise the services of the petitioner to bring him in the time scale of pay post with all attendant benefits and to pass such further or other orders.

For Appellant : Mr.A.L.Namasivayam

For Respondents : Mrs.A.Sri Jayanthi,
Special Government Pleader

JUDGMENT

The instant appeal has been filed against the order of dismissal passed in W.P.No.28851 of 2006 (O.A.No.7313 of 1996) dated 24.11.2008, filed by the appellant.

2. The case of the appellant was that he was employed as daily wage worker on 2.4.1990 in the office of the third respondent, subsequently, the second respondent included the name of the petitioner for appointment as Animal Husbandry Assistant and appointment orders were issued to 18 daily wage workers including the appellant. In spite of order of appointment, the posting order was not given to the appellant as he did not complete five years of continuous service, but his juniors, who did not complete five years of continuous service were appointed as Animal Husbandry Assistants. Subsequently, his services were abruptly terminated on 31.7.1995, with effect from 20.4.1995, by the second respondent without providing any opportunity to show cause against the order of termination.

3. Aggrieved by the order of the second respondent, he filed an Application in O.A.No.7313 of 1996 before the Tamilnadu Administrative Tribunal which was transferred and renumbered as the instant Writ Petition.

4. In the above O.A., the first respondent filed a counter contending that the appellant was appointed as a Daily Wages workers and the Director of Animal Husbandry, Chennai, the first respondent herein issued a memo to all the Regional Joint Directors of Animal Husbandry to fill up the vacant posts of Animal Husbandry Assistants in the Animal Husbandry Department from among the daily wages employees working in their regions, taking into account the regional seniority, instead of divisional seniority. The name of the appellant was also included and allotted to the office of the Deputy Director of Animal Husbandry Cattle Breeding and Fodder Development, Vellore. Thereafter, the Deputy Director of Animal Husbandry, Sheep Farm, EEC, Ranipet, the third respondent has requested the first respondent to issue a clarification as to whether the services of the casual labourers who had put in less than five years could be regularised in contravention of the instructions issued in G.O. Ms.No.12, Agriculture Department dated 2.1.85 and whether they could be promoted as Animal Husbandry Assistants in regular vacancies.

5. In view of the clarification sought from the higher authorities, the third respondent did not relieve the appellant from the Unit and he was not appointed as Animal Husbandry Assistant. Subsequently, the Government clarified that the age, education, experience and other qualifications prescribed in the amendment to adhoc rules issued in G.O.Ms.No.1527, Agriculture Department, dated 28.8.1985 would continue to remain in force.

Based on the above instructions given by the government, necessary instructions were given to all the officers to follow the instructions scrupulously while appointing the casual labourers to regular vacancies of Animal Husbandry Assistants.

6. That being the position, the appellant did not turn up for duty from 20.4.1995 to 31.7.1995, without any intimation to the third respondent and therefore his services were terminated with effect from 20.4.1995.

7. The learned Single Judge, after considering the rival submissions and also considering the judgment of the Supreme Court in Secretary, State of Karnataka Vs. Umadevi (3) and others reported in (2006) 4 SCC page 1, dismissed the writ petition holding that as the appellant did not possess even the minimum required service qualification, he cannot seek for any direction to regularise the services as a matter of right, apart from that the appellant absented from duty from 20.4.1995 to 31.7.1995 without prior intimation and hence, the services of the appellant were terminated. The appellant, being a Daily Wages employee, can be ousted from service at any time without prior notice and no detailed enquiry is required before terminating the services of casual labourers, since it is not on account of any disciplinary action. Challenging the above order, the instant writ appeal has been filed.

8. We have heard Mr.A.L.Namasivayam, learned counsel appearing for the appellant and Mrs.A.Sri Jayanthi, learned Special Government Pleader appearing for the respondents and carefully perused the records.

9. Admittedly, the appellant was appointed as a daily wages worker on 2.4.1990. Even though he was selected to the post of Animal Husbandry Assistant, the posting orders could not be issued to him on the ground that he is not having the required qualification for the appointment of Animal Husbandry Assistant. In the above circumstances, as per the directions issued by the Government, posting order was not given to the appellant. Being a daily wages worker, he has absented from duty from 20.4.1995 to 31.7.1995 without prior intimation, so, the third respondent terminated the services of the appellant.

10. As rightly held by the learned Single Judge, the appellant, was a daily wages employee and appointed temporarily for a period of 89 days with a condition that his services could be terminated at any time without any prior intimation. In the above circumstances, no detailed enquiry is required

before terminating his services as he voluntarily absented from duty from 20.4.1995 to 31.7.1995 without prior intimation. We do not find any illegality or irregularity in the order passed by the learned Single Judge. The writ appeal fails and accordingly, the same is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1.The Director of Animal Husbandry,
Anna Salai, Chennai 600 006.

2.The Regional Joint Director
of Animal Husbandry,
Gandhi Nagar, Vellore,
North Arcot Ambedkar District.
(Now, Vellore District).

3.The Deputy Director of
Animal Husbandry,
Sheep Farm (EEC),
Mugandarayapuram,
North Arcot Ambedkar District.
(Now, Vellore District)

1 cc to M/s.A.L.Namasivayam, Advocate, sr.24510

1 cc to The Government Pleader, sr.24720

सत्यमेव जयते

Writ Appeal No.100 of 2015

ala co

kra 11.05.2016

WEB COPY