

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2016

CORAM

THE HON'BLE MR. JUSTICE M.S. RAMESH

W.P.No.34137 of 2013

and M.P.No.1 of 2013

and M.P.No.1 of 2015

R.Thirugnanam

...Petitioner

Vs.

1. The Tahsildar,
Chidambaram,
Cuddalore District.

2. The District Collector,
Cuddalore,
Cuddalore District.

....Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Ceriorarified Mandamus calling for the records relating to the order passed by the first respondent in Na.Ka. No.A5/6750/2013 dated 25.11.2013 served on the petitioner on 02.12.2013 and quash the same thereby direct the respondent to permit the petitioner join duty.

For Petitioner : Mr.A.Arasu Ganesan

For Respondents : Mr.K.Balamurugan
Government Advocate.

O R D E R

The Prayer in the Writ Petition is for issuance of Writ of Ceriorarified Mandamus calling for the records relating to the order passed by the first respondent in Na.Ka.No.A5/6750/2013 dated 25.11.2013 served on the Petitioner on 02.12.2013 and quash the same thereby direct the respondent to permit the petitioner join duty.

2. The impugned order suspending the petitioner from the post of Village Administrative Officer is based on the findings that the petitioner's Transfer Certificate of 8th standard carries his date of birth as 25.07.1975 whereas the petitioner's Transfer Certificate of 9th standard carries his date of birth as 25.07.1971 and that the petitioner while applying for the post of VAO had also given the date of birth as 25.07.1971 in his application. Since there was a discrepancy the respondents suspended the petitioner from the post. Challenging the same the present writ petition is filed.

3. The learned counsel for the petitioner would draw my attention to an order passed by the Judicial Magistrate No.1, Chidambaram in C.C.No.3053 of 2013 dated 04.09.2013 wherein the petitioner's date of birth has been declared as 25.05.1971. In spite of the order being brought to the notice of the respondents, it has been considered. The order of the Judicial Magistrate declaring the petitioner's date of birth as 25.07.1971 is a conclusive proof of declaration of his correct date of birth and the respondent cannot overlook the same. As pointed out by the learned Counsel submitted that no show cause notice was issued to the Petitioner calling for explanation before passing the suspension order is also in violation of the principles of natural justice and hence unconstitutional.

4. In such circumstances, the impugned order passed without consideration of the order of the Judicial Magistrate No.1, Chidambaram, Cuddalore District dated 04.09.2013 in C.C.No.3053 of 2013 as well as non issuance of show cause notice prior to the suspension order is liable to be set aside and is accordingly quashed. In the result the writ petition is allowed. No Costs. Consequently miscellaneous petitions are also closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

dpq

To

1. The Tahsildar,
Chidambaram,
Cuddalore District.

2. The District Collector,
Cuddalore,
Cuddalore District.

+1 cc to M/s.A.Arasu Ganesan Advocate sr 69480 dt 12/01/2017

+2 cc to Government Pleader sr 69678, 67918

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and M.P.No.1 of 2015

aa04/01/2017