

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.4.2016

CORAM

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Appeal No.481 of 2016
and
C.M.P.No.6637 of 2016

The Assistant Director of Survey
and Land Records Department,
Tiruchirappalli. ... Appellant

Versus

K.C.Bhaskaran ... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 28.4.2014 made in W.P.No.7047 of 2007.

W.P.No.7047 of 2007 : Writ Petition, having been transferred
from the file of the Tamilnadu Administrative Tribunal in
O.A.No.4927 of 2002, is filed to call for the records of the
Respondent herein in his proceedings Na.Ka.A7/16383/1997 dated
23.07.2002 and to quash the same and consequently direct the
respondent herein to reinstate the applicant in service as field
surveyor.

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

सत्यमेव जयते

JUDGMENT

(Judgment of the court was delivered by V.BHARATHIDASAN, J.)

The present writ appeal has been filed against the order
passed by the learned Single Judge in W.P.No.7047 of 2007
(O.A.No.4927 of 2007) allowing the writ petition filed by the
respondent.

2. We have heard Ms.A.Sri Jayanthi, learned Special
Government Pleader for the appellant.

3. The writ petition was filed by the respondent challenging
the order of removal from service. The petitioner was appointed
as a Field Assistant, subsequently promoted as Field Surveyor

during 1985, while he was working in the above post, he was absented from duty from 9.12.2001. Hence, a disciplinary proceedings was initiated by the appellant and charges were framed under Rule 17(b) of the Tamil Nadu Government Servant Conduct (Discipline and Appeal) Rules on 7.3.1994. For the above charge memo, the respondent submitted his explanation that he was absent from service as he was suffering from Cancer and he was under treatment for the same, hence he could not attend duty. Thereafter, an enquiry was conducted. After enquiry, the Enquiry Officer submitted his report, holding that charges are proved, based on the admission made by the respondent herein. On receipt of the enquiry report, the disciplinary authority, after following the procedure, removed the petitioner from service. Challenging the same, the respondent filed an application before the Tamil Nadu Administrative Tribunal in O.A.No.4927 of 2002 and the same was transferred to this court and numbered as W.P.No.7047 of 2007.

4. The learned Single Judge, after hearing the parties, allowed the writ petition following a judgment of the Honourable Supreme Court in KRUSHNAKANT B.PARMAR v UNION OF INDIA (2012 (2) SLJ 19) stating that mere unauthorized absence does not amount to misconduct unless it is proved that the unauthorized absence is wilful and hence, the finding of the disciplinary authority, without going into the question whether the unauthorized absence is wilful or not is perverse. Since the respondent attained superannuation in the meantime, the learned Single Judge directed the respondent to notionally reinstate the petitioner with continuity of service and other attendant benefits, but, without any backwages. Challenging the above order of the learned Single Judge, the instant writ appeal was filed.

5. We have heard the learned Special Government Pleader appearing for the appellant.

6. We do not find any irregularity in the order passed by the learned Single Judge as the finding of the disciplinary authority is perverse without going into the question whether the unauthorized absence is wilful. We find no reason to interfere with the order passed by the learned Single Judge hence, the writ appeal fails and consequently, it is dismissed. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

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Sub Assistant Registrar

ssk

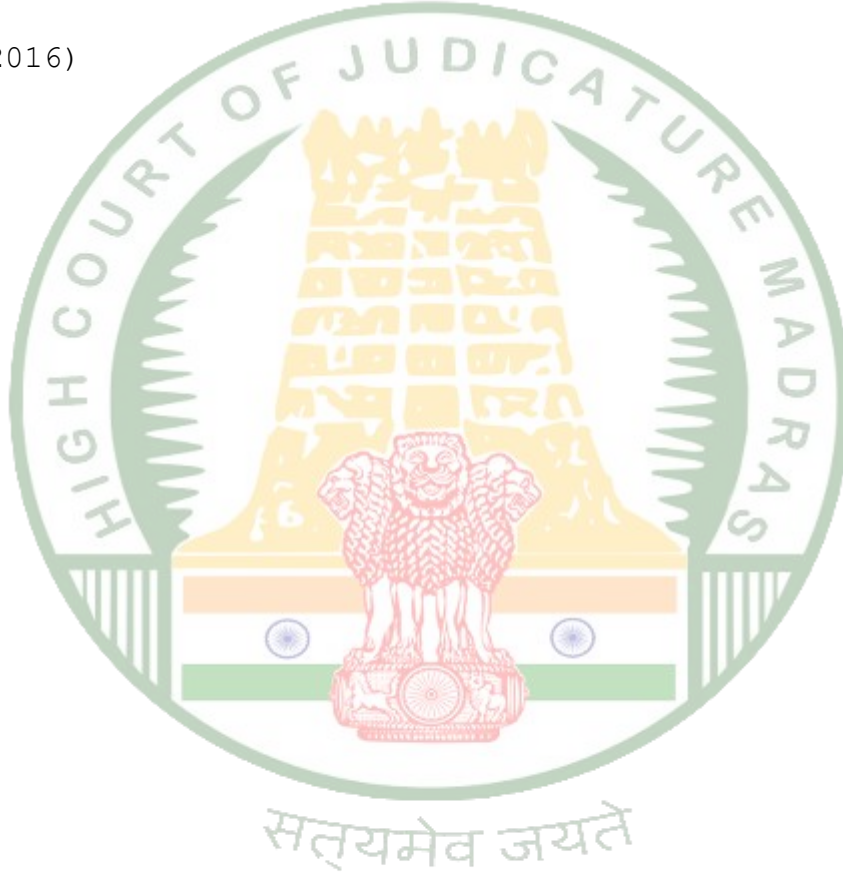
To

The Assistant Director of Survey
and Land Records Department,
Tiruchirappalli.

+1cc to the Government Pleader, S.R.No.24229

Writ Appeal No.481 of 2016

SK(CO)
CA(06/05/2016)



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