

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.05.2017

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THE HON'BLE Mr. JUSTICE **S.M.SUBRAMANIAM**

W.P.No.35649 of 2003

&

W.P.M.P.No.43305 of 2003

D.Velu

.. Petitioner

Versus

1. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.
2. The Commissioner,
Sethupattu Panchayat Union,
Sethupattu.
3. The President, Mansurabad
Sethupattu Panchayat Union,
Thiruvannamalai.

..Respondents

Writ Petition, filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for records relating to the 3rd respondent's Proceedings No.nil, dated 22.3.2003 to quash the same and consequently direct the respondents to regularise the services of the petitioner as Tank Operator with all benefits, both service & monetary.

For Petitioner : Mr.L. Chandrakumar

For Respondents : Mr.K.Dhanajayan
Special Government Pleader

ORDER

The prayer in this Writ Petition is to quash the proceedings (viz., show cause notice) dated 22.3.2003, issued by the third respondent, and consequently, to direct the respondents to regularise the services of the petitioner as Tank Operator, with all service & monetary benefits.

2. The petitioner was initially appointed as Casual Labourer, in the service of the respondent-Panchayat Union, in the year 1986. Subsequently, by order, dated 1.6.1988, he was appointed as Tank Operator on a consolidated pay. It is the case of the petitioner that, though he has been working sincerely and to the satisfaction of his Superior Officers, he has been issued with a show cause notice by the third respondent, dated 22.03.2003. Hence, the petitioner has filed this Writ Petition, seeking to quash the same.

3. The learned counsel appearing for the petitioner contented that,

though the petitioner has been discharging his duties sincerely and to the satisfaction of his Superior Officers, the third respondent has issued the impugned show cause notice, alleging dereliction of duty, and hence, the learned counsel prays for quashing the same.

4. The learned Special Government Pleader has submitted that, the impugned Order is only a Show Cause Notice, to which, the petitioner also submitted his explanation, but, without waiting for final orders to be passed thereunder, he has approached this Court, seeking to quash the same. It is his further submission that, at the time, when the Writ Petition was entertained, i.e. on 15.12.2003, this Court granted an order of interim injunction, whereby, the respondents have been restrained from proceeding further with operation of the impugned order, and the petitioner, on the strength of the interim order, is still continuing in service. Therefore, the learned Special Government Pleader prays not only for dismissal of the Writ Petition, but also for vacating the interim order granted in favour of the petitioner.

5. Heard Mr.L.Chandrakumar, the learned counsel appearing for

the petitioner, and Mr.K.Dhanajayan, learned Special Government Pleader for respondents and perused the materials placed on record.

6. It is trite law that, no Writ Petition is maintainable against the show cause notice, for, the employee has an opportunity to submit his explanation/reply to the charges contained in the show cause notice before the Authority concerned. In this case, it is seen that the petitioner has submitted his explanation to the show cause notice issued by the third respondent, but, without waiting for final orders to be passed thereunder, he has approached this Court, seeking to quash the same.

7. Thus, in view of the fact that the challenge in this Writ Petition is only to the Show Cause Notice, and by virtue of the interim order, the respondents have been enjoined from proceeding further in pursuance of the impugned order, this Court is of the view that the not only the Writ Petition is liable to be dismissed, but the order of interim injunction also need to be vacated. Accordingly, the Writ Petition stand dismissed and the interim injunction granted in W.P.M.P.No.43305 of 2003, is vacated. Consequently, the said Miscellaneous Petition is also dismissed. However,

there shall be no order as to costs.

04.05.2017

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Index : Yes/No

To

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Sethupattu Panchayat Union,
Sethupattu.
3. The President, Mansurabad
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Thiruvannamalai.



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S.M. SUBRAMANIAM, J.

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