

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.02.2017

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

WP.No.4876/2017 & WMP.Nos.5100 & 5101/2017

A.Satheesh Kumar

.. Petitioner

Versus

1.The Secretary
State of Tamil Nadu
Adi Dravidar Welfare Department
Fort St George, Chennai 600 009.

2.The Director
Adi Dravidar Welfare Department
Ezhilagam, Chennai 600 005.

3.The District Adi Dravidar Welfare
officer, Villupuram District,
Villupuram.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records made in impugned order in Na.Ka.M1/17065/2016 dated Nil February 2017 on the file of the 3rd respondent herein and quash the same as illegal and direct the respondents to permit the petitioner to work as Record Clerk in the office of the Adi Dravidar and ST Welfare Office, Villupuram District to secure the ends of justice.

For Petitioner p: Mr.R.Sankarasubbu

For Respondents : Mr.K.Dhananjayan, Spl.GP

ORDER

By consent, the writ petition is taken up for final disposal. Mr.K.Dhananjayan, learned Special Government Pleader accepts notice on behalf of the respondents.

2. The petitioner is the son of one Ammavasi, who was employed as a Night Watchman in the Government Adi Dravidar Students Hostel and he died in harness on 08.11.2005 and on account of the same, the petitioner was given appointment on

compassionate ground vide proceedings of the 3rd respondent dated 07.02.2017 as Record Clerk and the petitioner has also jointed the said post in the Office of the District Adi Dravidar and Tribal Welfare, at Villupuram on 09.02.2017. The grievance expressed by the petitioner is that all of a sudden, the 3rd respondent vide impugned proceedings dated 09.02.2017, has cancelled the said order and indicated the petitioner that since the post in which he was given appointment on compassionate ground, is a feeder category, he should give his willingness to be appointed as a Cook and challenging the legality of the same, the petitioner came forward to file the present writ petition.

3. Mr.R.Sankarasubbu, learned counsel for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that admittedly, the petitioner joined the post of Record Clerk in terms of the proceedings of the 3rd respondent dated 07.02.2017, on 09.02.2017 and is working in that capacity and without putting the petitioner on notice and without affording an opportunity whatsoever, the order came to be passed and the petitioner was also directed to give his consent to be appointed as a Cook and since the impugned order visits the petitioner with grave civil consequences, he should have been put on notice before passing the order and prays for interference.

4. Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents would contend that inadvertently the petitioner has been given appointment on compassionate ground to the post of Record Clerk, which is a feeder category and taking into consideration of the same, the order of appointment issued in favour of the petitioner came to be cancelled rightly and the petitioner was also offered with an alternate employment of Cook and as such, it is not open to him to make any complaint and prays for dismissal of the writ petition.

5. The Court has considered the rival submissions and also perused the materials placed before it.

6. The fact remains that the petitioner was given compassionate ground appointment to the post of Record Clerk vide proceedings of the 3rd respondent dated 07.02.2017 and accordingly, he joined the said post on 09.02.2017 and he was working in that capacity and without putting him on notice and affording him any opportunity whatsoever, the impugned order came to be passed. In the considered opinion of the Court, since the order visits the petitioner with grave civil consequences, in all fairness, the 3rd respondent ought to have put the petitioner on notice before passing the said order. But, unfortunately, he has failed to do so.

7. This Court, taking into consideration the above facts and circumstances, directs the 3rd respondent to treat the proceedings dated 09.02.2017 as a Show cause notice for which the petitioner has also submitted his response on 23.02.2017 and the 3rd respondent is directed to consider the said representation/explanation on merits and in accordance with law and pass orders within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner and till then shall defer all further proceedings in pursuant to the impugned communication dated 09.02.2017.

8. The Writ petition stands disposed of with the above direction. No costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Secretary to Government
Government of Tamil Nadu
Rural Development & Panchayat Raj
Department, Fort St George
Chennai 600 009.

2.The Director
Adi Dravidar Welfare Department
Ezhilagam, Chennai 600 005.

3.The District Adi Dravidar Welfare
officer, Villupuram District,
Villupuram.

+5ccs to Mr.R. Sankarasubbu, Advocate SR. 12740

+1cc to Government Pleader SR. 13416

NM(CO)
VR(3/3/2017)

WP.No.4876/2017