

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2017

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No. 1715 of 2017 &
WMP.Nos.1682 & 1683 of 2017

G.Natarajan

[PETITIONER]

Vs

- 1 The Assistant Director of Town Panchayat
Office of the Asst. Director of Town Panchayat
Tiruvallur Region, Tiruvallur.
- 2 The District Collector
Tiruvallur District, Tiruvallur.
- 3 The Executive Officer
Ponneri Town Panchayat
Ponneri, Tiruvallur District 601 204

[RESPONDENTS]

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent herein in Na. Ka. No.29/2013/A1 dt 15.11.2016 quash the same and consequentially direct the 3rd respondent to reinstate the petitioner along with all service benefits

For Petitioner : Mr.R.Ganesh Kumar

For Respondents: Mr.S.Gunasekaran R1 & R2
Addl. Govt. Pleader

Mr.P.Gunasekaran - R3

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O R D E R

Heard Mr.R.Ganesh Kumar, learned counsel appearing for the petitioner, Mr.S.Gunasekaran, learned Additional Government Pleader appearing for the respondents 1 & 2 and Mr.P.Gunasekaran, learned counsel for the third respondent. With the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal.

2.The order of dismissal dated 15th November, 2016, is under challenge in this Writ Petition.

3.The writ petitioner was working as Sweeper in Ponneri Town Panchayat and the allegation against him was that he got appointment by submitting a bogus School Certificate. As per the impugned order, the respondents referred the Certificate to the Headmaster, Ponneri Government Boys Higher Secondary School and pursuant to the reply given by the Headmaster on 10th December, 2014, an order of dismissal was issued.

4.Thus, it is apparent that no enquiry or opportunity was afforded to the writ petitioner to defend his case. 'No man shall be condemned unheard', is the legal principle and therefore, providing an opportunity is a mandatory requirement to be followed before imposing the penalty on the delinquent employee.

5.The learned counsel appearing for the petitioner contended that the writ petitioner is having sufficient evidence to disprove the allegations levelled against him.

6.May that it be. This Court is of the firm opinion that the petitioner herein cannot be dismissed from service, without following the process of enquiry and such an order is strictly in violation of Article 311(2) of the Constitution of India. Such being the factual position, the order impugned in this Writ Petition deserves to be scrapped.

7.Accordingly, the order of dismissal passed by the third respondent dated 15th February, 2016 is quashed and it is left open to the respondents to reopen the file and by framing charges as per the provisions contained under the Tamil Nadu Civil Services (D&A) Rule, proceed with the enquiry in this regard and take a decision on the allegations levelled against the writ petitioner.

8.With this liberty, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rpa

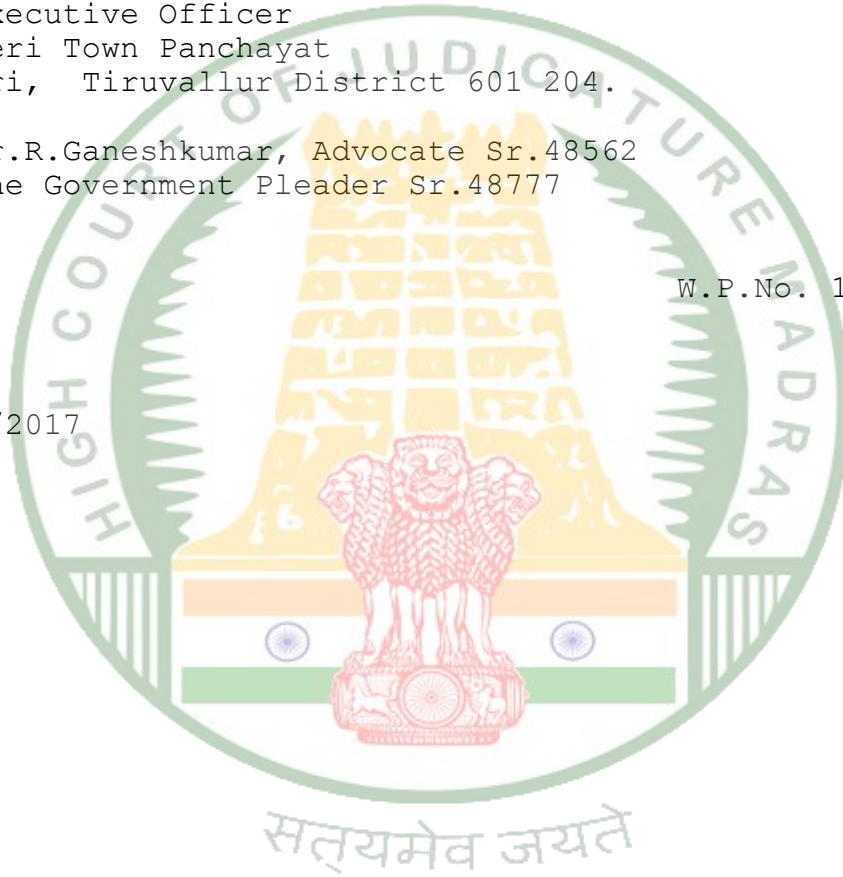
To

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Ponneri Town Panchayat
Ponneri, Tiruvallur District 601 204.

+lcc to Mr.R.Ganeshkumar, Advocate Sr.48562
+lcc to the Government Pleader Sr.48777

W.P.No. 1715 of 2017

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srg 20/07/2017



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