

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2017
CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.30743 of 2006

M.Thirunavukarasu

... Petitioner

Vs

1.The General Manager South
and Appellate Authority,
Tamil Nadu Region,
Food Corporation of India,
No.124, Greams Road,
Chennai-6.

2.The Disciplinary Authority,
Asst. General Manager (Commercial Stg.)
Food Corporation of India,
Avadi,
Chennai-72.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to call for the entire records in V & S/4(32) 2002/MT/DOM dated 10.01.2006, on the file of the 2nd respondent as confirmed by the 1st respondent in VIG 5/1 2006/171 dated 24.07.2006 and quash the same.

For Petitioner : Mr.V.Bhiman
For Respondents : Mr.A.S.Thambuswamy

O R D E R

Heard Mr.V.Bhiman, learned counsel for the petitioner and Mr.A.S.Thambuswamy, learned counsel appearing for the respondents.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a writ of Certiorari, to call for the entire records in V & S/4(32) 2002/MT/DOM dated 10.01.2006, on the file of the 2nd respondent as confirmed by the 1st respondent in VIG 5/1 2006/171 dated 24.07.2006 and quash the same."

3. The case of the petitioner is as follows:-

The petitioner joined as Watchman in the respondents' Corporation and he was promoted as Senior Picker. He was issued with the charge memo on the ground that he had produced false community certificate while securing employment in the Corporation. An enquiry was conducted into the charges and on the basis of materials made available in the enquiry, the Enquiry Officer submitted a report holding the charges proved against the petitioner. The enquiry report was submitted on 17.09.2005. In response to the enquiry report, the petitioner had sent a representation on 31.10.2005.

4. However, the second respondent, Disciplinary Authority, not satisfied with the explanation given by the petitioner, had imposed a penalty of dismissal from service on the petitioner with effect from 13.01.2006. As against the order of penalty, the petitioner preferred an appeal to the first respondent and the same came to be rejected vide order dated 24.07.2006 by the first respondent. The orders of the first and second respondents are put to challenge in the present writ petition.

5. The learned counsel for the petitioner would submit that the petitioner had attained the age of superannuation and therefore, the Corporation would be directed to sanction all the retirement benefits as admissible to the petitioner.

6. At this, learned counsel appearing for the respondents' Corporation would submit that the community certificate was subjected to verification before the District Level Vigilance Committee and the District Level Vigilance Committee vide proceedings dated 17.02.2003, had cancelled the community certificate. The copy of the order dated 17.02.2003, was also produced before this Court. In the final paragraph of the order, the petitioner was advised to file an appeal before the State Level Vigilance Committee, in case the petitioner was so advised. Although the order was passed in 2003, till date the learned counsel for the petitioner has no instructions whether any appeal had been filed against the order passed by the District Level Vigilance Committee.

7. In the absence of any instructions to show about the community status of the petitioner, this Court necessarily has to go into the circumstances that is made available before this Court viz., the order passed by the District level Vigilance Committee dated 17.02.2003, cancelling the community certificate granted to the petitioner. In view of the same, the orders passed by the first and second respondents cannot be interfered with. Since admittedly as on date, the petitioner had produced the bogus certificate in respect of his community status. Since the certificate itself has been cancelled by the District Level Vigilance Committee, this Court does not find any scope for

interference in the order passed by the respondents' Corporation and therefore, the writ petition lacks merits and substance. Therefore, the writ petition is dismissed. No costs.

8. While dismissing the writ petition, this Court observes that it is open to the petitioner to make representation to the Corporation for grant of any terminal benefits admissible to the petitioner, de hors the order of dismissal imposed on the petitioner. If such representation is made, the Corporation is directed to consider the same sympathetically, taking into consideration the 30 years of service put in by the petitioner and also the family circumstances as pointed out by the learned counsel for the petitioner.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gsk

To

- 1.The General Manager South
and Appellate Authority,
Tamil Nadu Region,
Food Corporation of India,
No.124, Greams Road,
Chennai-6.
- 2.The Disciplinary Authority,
Asst. General Manager (Commercial Stg.)
Food Corporation of India,
Avadi,
Chennai-72.

+1cc to Mr.V.Bhiman, Advocate, S.R.No.90326

+1cc to Mr.A.S.Thambuswamy, Advocate, S.R.No.90104

W.P.No.30743 of 2006

PA(CO)
RRK(06/02/2018)