

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.05.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14318 of 2013 and

M.P.Nos. 2 and 3 of 2013

P.Raja .. Petitioner

vs

1. The District Collector,  
Collectorate,  
Coimbatore - 18.

2. Dr.M.Jayaraman .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari praying to call for the records on the file of the 1<sup>st</sup> respondent in connection with the orders passed by him in connection with the orders passed by him in Na.Ka.No.244/2013/Ke2 dated 08.03.2013 and Na.Ka.No.244/ 2013/Ke2 dated 29.04.2013 and quash the same.

For Petitioner : Mr.R.Singgaravelan, Senior counsel  
for Ms.M.Srividhya  
For Respondent-1 : Mr.K.Dhananjeyan,  
Special Government Pleader  
For Respondent-2 : No Appearance

सत्यमेव जयते  
O R D E R

The writ petitioner was appointed as a Bio-Technical Assistant on 02.01.1989 in the Collectorate. By proceedings dated 08.03.2013, a show cause notice was issued to the writ petitioner by the first respondent stating that the writ petitioner has attended the camp at his own instance without obtaining proper orders from the competent authorities. Accordingly, he had not attended the office work for 11 days. Thus, the said 11 days are to be treated as "no pay no work" and the writ petitioner is not entitled to claim pay for those 11 days. The writ petitioner had submitted his explanation stating that he had attended camp works and further, the works done by the writ petitioner can be verified and accordingly, the show

cause notice issued to him is to be canceled. The first respondent, without considering the facts, circumstances and the grounds raised by the writ petitioner, issued the order in proceedings dated 29.04.2013 imposing recovery of pay for 11 days by treating the period as "no work no pay" under Fundamental Rules 108.

2. The learned Senior Counsel appearing for the writ petitioner strenuously contended that it is a non-speaking order imposing penalty on the writ petitioner and any penalty under Rule 8 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules ought to have been imposed by following the procedures contemplated under the Rules. In the absence of initiation of proper proceedings under the Rules, such a punishment of recovering the salary cannot be imposed, since the procedures contemplated under Rules are mandatory. Such an argument deserves consideration, since the first respondent has not issued the show cause notice under the Rules for the purpose.

3. In view of the above, this Court is of the firm opinion that such an order, not contemplated under the Rules, deserves to be set aside and accordingly the impugned orders are quashed. However, the respondents are granted liberty to proceed with the show cause notice by initiating proper disciplinary proceedings under the Tamil Nadu Civil Services (Discipline and Appeal) Rules and thereafter proceed with the enquiry by affording opportunity to the writ petitioner.

4. The writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

srn/asi

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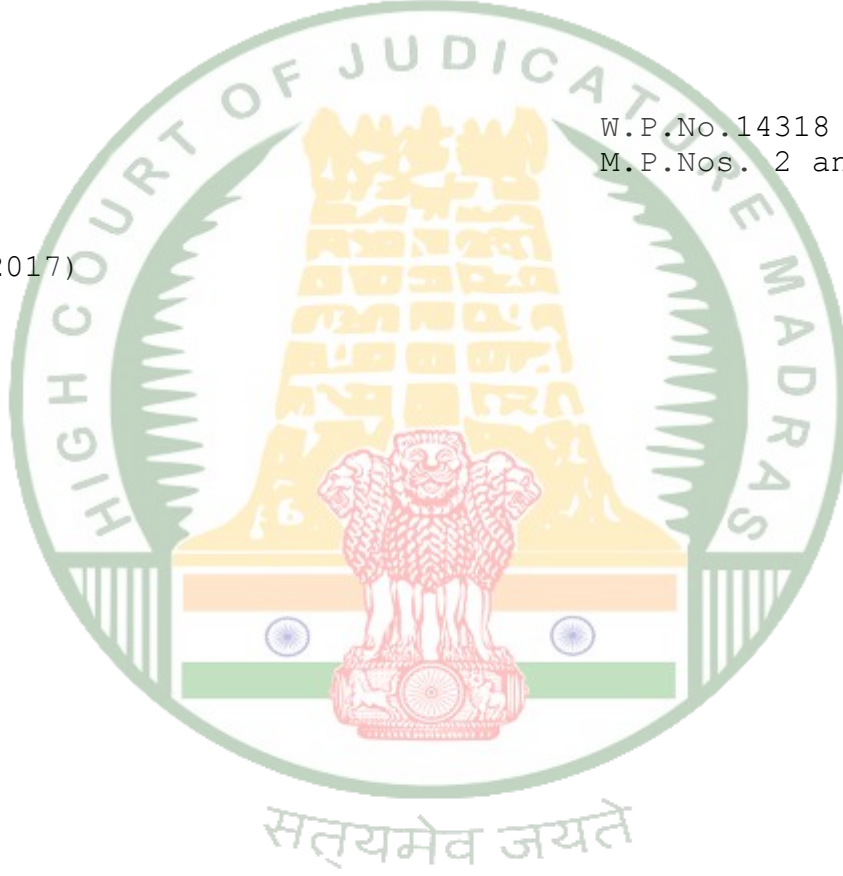
To

The District Collector,  
Collectorate,  
Coimbatore - 18.

+1cc to Ms.Sri Vidhya, Advocate, S.R.No.36847  
+1cc to the Government Pleader, S.R.No.36972

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VSN(CO)  
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