

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.09.2017

CORAM

THE HONOURABLE MR. JUSTICE. M.DHANDAPANI

W.P.No.29563 of 2004
and
W.P.M.P.No.35904 of 2004

B.Varadharajulu

.. Petitioner

Vs

1.The Personal Assistant,
District Collector (Development),
Thiruvannamalai District.

2.The Block Development Officer,
Panrutti Panchayat Union,
Panrutti,
Cuddalore District.

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the order of the first respondent in his proceedings in Roc.No.9020/02, dated 27.08.2004, quash the same and direct the respondents to reinstate the petitioner with all consequential benefits.

For Petitioner : Mr.C.Kalaiselvan
For Respondents : Mr.K.Bhuvanesweri,
for R.1

Mr.M.Elumalai, Govt. Advocate
for R.2

ORDER

The writ petition has been filed to call for the records relating to the order passed by the first respondent by his proceedings in Roc.No.9020/02, dated 27.08.2004, quash the same and direct the respondents to reinstate the petitioner with all consequential benefits.

2.The case of the petitioner is as follows:

2.1.The petitioner joined as Agricultural Assistant in the Department of Agriculture on 02.02.1971. In the year 1987, he was transferred to the Rural Development Department as Rural Welfare Officer Grade-II (Agriculture) wherein, the Assistant Rural Welfare Officer and the Junior Assistant are one and the same category.

2.2.While the petitioner was working as Junior Assistant in Panrutti Panchayat Union, the first respondent terminated him from service, as a criminal case was registered against the petitioner in C.C.No.2 of 1988 on the file of the learned Chief Judicial Magistrate No.II, Vellore for the offences under Sections 120(A) read with 420 IPC, 477 (A) IPC, 465,471, 468 and 471 IPC for the act of misconduct during his tenure as Agriculture Assistant (IOSP), Chengam under various sections of IPC. After conducting the full fledged trial, the learned Magistrate by his judgment dated 30.06.1999 convicted the petitioner under Sections 120 (B) r/w 420 IPC, 477 (A) (7 counts) and sentenced him to pay a fine of Rs.50/- each, in default to undergo one month simple imprisonment and also convicted the petitioner under Sections 465, 471 and 468 and 471 IPC (11 counts) 120 (B) r/w 420 IPC, 477 (A) (7 counts) and sentenced him to pay a fine of Rs.50/- each, in default to undergo one month simple imprisonment.

2.3.As against the said judgment dated 30.06.1999 passed by the learned Chief Judicial Magistrate No.II, Vellore, the petitioner preferred an appeal in C.A.No.54 of 1999 along with Cr.M.P.No.5337 of 1999 on the file of the learned Additional District and Sessions Judge, Vellore. The learned Additional District and Sessions Judge, Vellore by his order dated 30.06.1999 in Cr.M.P.No.5337 of 1999 suspended the sentence till the disposal of C.A.No.54 of 1999 and thereafter, after hearing the arguments advanced by the learned counsel on either side and after considering the documents available on record confirmed the conviction and sentence imposed by the trial Court in C.C.No.2 of 1988 by his judgment dated 03.10.2002.

2.4.In view of the above, the petitioner surrendered before the learned Chief Judicial Magistrate No.II, Vellore on 11.11.2002 and he was lodged in Central Prison, Vellore on 11.11.2002. Subsequently, he has been released on bail on 13.11.2002.

2.5.As against the judgment dated 03.10.2002 passed by the learned Additional District and Sessions Judge (Fast Track Court), Vellore the petitioner filed Crl.R.C.No.1989 of 2002 before this Court. This Court after considering the arguments of both sides and after considering the evidence in detail,

allowed the Criminal Revision in part by setting aside the judgment dated 03.10.2002 passed by the learned Additional District and Sessions Judge (Fast Track Court), Vellore and remanded the matter back to the appellate Court to reconsider the evidence in detail and dispose of the same.

2.6. In the meantime, after confirmation of the judgment passed by the learned Chief Judicial Magistrate No.II, Vellore by the the learned Additional District and Sessions Judge (Fast Track Court), Vellore, the Disciplinary Authority, issued a show cause notice to the petitioner under Rule 17[c][i][1] of Tamil Nadu Civil Services (Disciplinary and Appeal) Rules, for which, the petitioner submitted his explanations dated 22.03.2004 and 05.08.2004 stating that the show cause notice issued against him is against the principles of natural justice and he has filed Criminal Revision No.54 of 1999 and the same was disposed of by setting aside the judgment passed in Crl.Appeal No.54 of 1999 by the learned Additional Sessions Judge [Fast Track Court], Vellore.

2.7. The first respondent, without considering the explanations submitted by the petitioner, removed him from service by invoking the Rule under Section 17[c][i][1] of Tamil Nadu Civil Services (Disciplinary and Appeal) Rules by his order dated 27.08.2004 stating that once the petitioner has been convicted, the presumption of innocence is no longer available to him. As against the impugned order dated 27.08.2004 passed by the first respondent, the present writ petition has been filed.

3. Mr.C.Kalaiselvan, learned counsel for the petitioner submitted that this Court while disposing Crl.R.C.Nos.1988, 1989 and 1993 of 2002, set aside the judgment passed in C.C.No.2 of 1988 by the learned Chief Judicial Magistrate No.II, Vellore and remanded the matter back to the appellate Court viz., the learned Additional District and Sessions Judge, (Fast Track Court), Vellore for fresh disposal after conducting the elaborate trial.

4. The learned counsel for the petitioner further submitted that in view of the interim order passed by the learned Additional District and Sessions Judge (Fast Track Court), Vellore, in Cr.M.P.No.5337 of 1999 and C.A.No.54 of 1999, the petitioner was reinstated and subsequently, he retired from service. However, the pensionary benefits have been withheld by the respondents in view of the pendency of the writ petition.

5. Mr.M.Elumalai, learned Government Advocate, appearing for the respondents submitted that the petitioner was removed from service for his misconduct during his tenure as Agriculture

Assistant (IOSP), Chengam under various Sections of IPC. As the judgment passed in C.C.No.2 of 1988 was confirmed by the learned Additional District and Sessions Judge (Fast Track Court), Vellore, in C.A.No.54 of 1999, the first respondent rightly terminated the service of the petitioner. Hence, the writ petition is liable to be dismissed.

6.Heard Mr.C.Kalaiselvan, learned counsel appearing for the petitioner and Mr.M.Elumalai, learned Government Advocate appearing for the respondents.

7.On a perusal of the judgment passed in Crl.A.No.54 of 1999, it is seen that the learned Additional District and Sessions Judge (Fast Track Court), Vellore, has set aside the judgment passed in C.C.No.2 of 1988 by the learned Chief Judicial Magistrate No.II, Vellore and acquitted the petitioner of the criminal charge(s). After the acquittal, the petitioner was reinstated and subsequently, he retired from service. However, the pensionary benefits have been withheld by the first respondent.

8.In view of the fact that consequent to the order of acquittal, the petitioner was reinstated and subsequently he has also retired from service, the prayer sought for in the writ petition has become infructuous. However, it is open to the petitioner to approach the authority concerned to work out his remedy.

9.The Writ Petition is disposed of accordingly. There is no order as to costs. Consequently, connected W.P.M.P.is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

cla

To

1. The Personal Assistant,
District Collector (Development),
Thiruvannamalai District.

WEB COPY

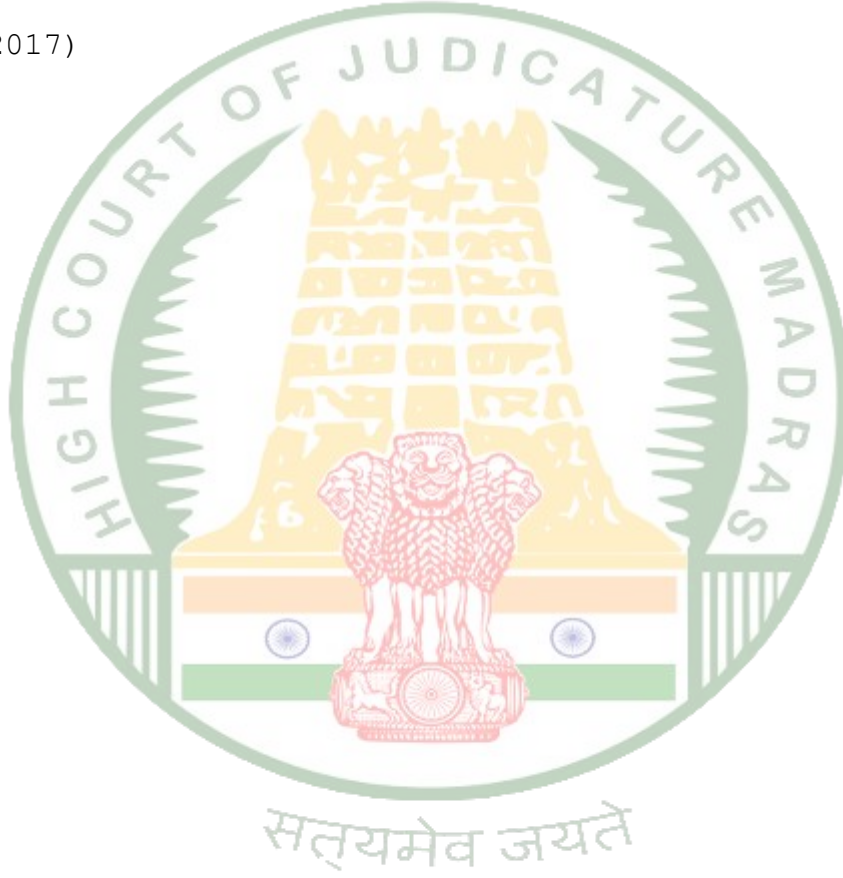
2. The Block Development Officer,
Panrutti Panchayat Union,
Panrutti,
Cuddalore District.

+1cc to Mr.C.Kalaichelvan, Advocate Sr. 63895

+1cc to the Government Pleader Sr. 64538

W.P.No.29563 of 2004

BR(CO)
VR(28/10/2017)



WEB COPY