

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.4327 of 2018

T.Justin

.. Petitioner

-vs-

Secretary

Bar Council of Tamilnadu and Puducherry

High Court Campus

Chennai 600 104

... Respondent

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by Special Committee of the Bar Council of Tamilnadu and Puducherry by order dated 09.12.2017 communicated by the respondent dated 04.01.2018 and quash the same and consequently direct the respondent to reinstate the petitioner into service with all attendant benefits and service benefits.

For Petitioner :: Mr.L.Chandrakumar

ORDER

This writ petition has been directed against the impugned order passed by the Special Committee of the Bar Council of Tamil Nadu and Puducherry dismissing the petitioner from service on the serious charges proved against him.

2. Mr.L.Chandrakumar, learned counsel for the petitioner, assailing the impugned order, contended that the petitioner was appointed as a Clerk on daily wage basis on 1.8.2006 in the office of the respondent. Subsequently, his services were also regularised. Since he went on leave from 11.5.2015 to 15.5.2015, treating that period of leave as an unauthorised absence, issuing a notice calling for explanation, which was not even properly served at his native address, again taking a stand that the petitioner has deliberately evaded from receiving the notice, passed an order of dismissal from service imposing a capital punishment. Such an order is liable to go, he pleaded. Adding further, he has pleaded that when there is no proper enquiry held before passing the impugned order, the respondent

cannot say that no reply has been sent by the delinquent employee to the show cause notice sent by the Bar Council vide R.O.C.No.1613 of 2016 dated 3.5.2016 and therefore he should be denied the principles of natural justice.

3. Before proceeding to deal with the aforesaid contentions, it may be pertinent to mention the vital aspect that the petitioner, having averred in his affidavit in paragraph-2 that he was appointed as Clerk in 2006, has taken a diametrically opposite stand in paragraph-4 that he was unable to present the exact date of appointment and the date of confirmation. That shows that he was not even aware of his appointment. Secondly, when he claims in paragraph-3 that his services were regularised, nowhere the order regularising his services has been enclosed and this apart, when the petitioner claims that he should be given a fair and reasonable opportunity before the imposition of the capital punishment of dismissal from service, he should establish before this Court with all the requisite documents that he was a full member or at least he was regularly appointed by the Bar Council. Unfortunately, he has not even enclosed the order of appointment. Without the order of appointment, it is not known how the petitioner was allowed to continue till the present impugned order was passed. When the petitioner is unable to produce the order of appointment and also miserably failed to produce the order regularising his services, this Court has to presume that he was not a regular employee and he was not even appointed by any competent authority. Therefore, the claim made by the learned counsel for the petitioner that the petitioner should be given an opportunity to take part in the enquiry, is wholly unsustainable and bad in law. Hence, the writ petition is dismissed as devoid of any merit. Consequently, W.M.P.Nos.5326 & 5327 of 2018 are also dismissed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ss

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To

1. The Secretary
Bar Council of Tamilnadu and Puducherry
High Court Campus
Chennai 600 104

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.15606

W.P.No.4327 of 2018

SSD (CO)

RRK (09/04/2018)



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