

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 21.02.2018

CORAM:
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.1725 of 2015

R.Vedagiri

... Appellant/Petitioner

-Vs-

The Deputy Director of Public Health and
Preventive Medicine
Institute of Public Health
Poonamallee, Chennai - 600 056. ...Respondent/Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent
against the order passed in W.P No.29755 of 2008 dated
04.06.2015.

WP.No.29755/2008:Writ petition filed under Article 226 of the
constitution of India praying to issue a writ of
certiorarified mandamus to call for the records of the
respondent culminated in the impugned termination order in
Na.Ka.NO. 6199/PA-1 /85 dated 4.8.2008 and quash the said
order and entire proceedings there under against the
petitioner and reinstate the petitioner in service as
amazdoor in the respondent department forthwith along with all
attendant and monetary benefits and continuity of service.

For Appellant : Mr.Ashok Menon

For Respondent : Mr.K.Karthikeyan
Govt.Advocate (Education)

J U D G M E N T

[Judgment of the Court was delivered by
K.K. SASIDHARAN, J.]

The writ petition filed by the appellant challenging the
order of termination dated 4 August 2008 was allowed by the
learned single Judge without any liability to pay back wages.
The said order is under challenge primarily on the ground that
under similar circumstances, back wages was paid to another
employee, who is the appellant in W.A.No.1083 of 2014.

2. We have heard the learned counsel for the respective
parties.

3. The appellant was appointed on compassionate basis by
order dated 3 April 1986. The appointment was cancelled after
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22 years on the ground that the factum of employment of his near relative was not disclosed. In short, the employment of the brother of the appellant as a Mazdoor was taken into account for terminating his service after 22 years.

4. The respondent initiated action against another employee viz., Thiru.A.Shanmugam, for a similar misconduct. His appointment was cancelled after a period of 20 years. The order was challenged in W.A.No.1083 of 2014. The learned single Judge directed re-instatement but without back wages. However, a direction was given to count the earlier period for all other purposes.

5. The writ petition filed by the appellant in W.P.No.29755 of 2008 was allowed by the learned single Judge. However, neither back wages nor continuity of service were given to the appellant. The appellant is therefore before this Court to grant him back wages and continuity of service.

6. There is no dispute that the order of termination was passed 22 years after the appointment of the appellant. The order setting aside the termination was not challenged by the Management. The order has therefore become final as against the Management. We are informed that the appellant was reinstated into service.

7. The appellant claimed back wages and continuity of service. There is no question of granting back wages to the appellant, in view of the principle "No Work No Pay". We are therefore of the view that the appellant is not entitled to back wages.

8. The other question is as to whether the appellant is entitled to the benefit of earlier service for all other practical purposes. In case, the appellant is not given the benefit of service for a period of 22 years, it would cause prejudice to him inasmuch as pensionary benefits would not be given to him. We are therefore of the view that the appellant should be given continuity of service and all other benefits except monetary benefits for the entire period.

9. The order passed by the learned single Judge is modified by directing reinstatement of the appellant with continuity of service and all other attendant benefits, except back wages.

10. The intra court appeal is disposed of with the above direction. No costs.

Sd/--

Assistant Registrar(CS VII)

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Sub Assistant Registrar

To
The Deputy Director of Public Health and
Preventive Medicine
Institute of Public Health,
Poonamallee, Chennai - 600 056.

+lcc to Mr.Ashok meran, Advocate SR.No.13885
+lcc to Government pleader SR.No.13664

KGK(CO)
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