

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.938 of 2015
and MP No.1 of 2015

1. The Principal Commissioner and
Revenue Administration Commissioner
Ezhilagam, Chepauk, Chennai 5.
 2. The District Collector,
Ramanathapuram.
 3. The District Revenue Officer,
Ramanathapuram. Appellants
- versus
- V.Govindammal Respondent

Appeal filed under Clause 15 of the letters patent against the order passed by this Court dated 11.03.2014 passed in W.P.No.13341 of 2006.

PRAYER IN W.P.No.13341 of 2006:

Writ Petition having been transferred from the file of the Tamil Nadu Administrative Tribunal in O.A. No.4010 of 2002 is filed to call for the records relating to the order of removal passed by the 2nd Respondent in Number A5/74128/2000 dated 9.6.2002 and quash the same.

For appellants : Mr.M.Manikandan
Government Advocate

For Respondent : Mr.S.Parthasarathy

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

Challenging in this Intra Court Appeal is to the order of the learned Single Judge dated 11.03.2014 made in WP No.13341 of

2006, in and by which, the order removing the respondent from service dated 09.06.2002 passed by the second appellant was quashed.

2. The case of the respondent before the Writ Court was that she was appointed as an Office Assistant in the office of the 3rd appellant on compassionate ground on 28.11.1997. During the course of her employment, she was served with a charge memo dated 12.11.2000, under Rule 17(b) of the Tamilnadu Subordinate Services (Discipline and appeal) Rules. The following three charges were made against the respondent:

- a) The delinquent, had with an intention to obtain the job on compassionate ground produced fake educational certificate.
- b) She cheated the Government by producing a false certificate.
- c) She cheated the Government and she conducted herself in the manner unbecoming of the Government Servant which is in violation of Rule 20(i) of the Government Servant Conduct Rules, 1973.

3. Not satisfied with her explanation to the said Charge Memo, Departmental Enquiry was conducted and the Enquiry Officer filed a report to the effect that the charges against the delinquent /respondent herein were proved. On the basis of the said enquiry report, the respondent was removed from service by the order impugned in the Writ Petition. The respondent originally approached the Tamil Nadu Administrative Tribunal, challenging her removal from service by way of OA No.4010 of 2002. On abolition of the Tribunal, the Original Application was transferred to this Court and numbered as WP No.13341 of 2006.

4. The learned Single Judge, who heard the Writ Petition allowed the Writ Petition mainly on the ground that the respondent was not given an opportunity to offer her views if any against the documents that were produced by the employers, during the course of the enquiry. The Enquiry Officer had concluded that the Certificate produced by her regarding her Educational qualification is a bogus Certificate, mainly on the basis of the report of the Assistant Educational Officer, Kayangudi in his letter dated 12.08.1999 and the report of the District Educational Officer, Sivagangai dated 10.02.2000. The learned Single Judge felt that the respondent was not given an opportunity to offer her views on the above two documents principles of natural justice stood violated and hence the impugned order of removal from service was liable to be quashed.

On the aforesaid conclusions, the learned Single Judge allowed

the Writ Petition.

5. Aggrieved respondents in the Writ Petition have come forward with the above Appeal.

6. We have heard Mr.N.Manikandan, learned Government Advocate appearing for the appellants and Mr.S.Parthasarathy, learned counsel appearing for the respondent.

7. Since the main ground of attack to the enquiry proceedings was in relation to the Certificate produced by the respondent showing that she had passed 8th standard from Panchayat Union Middle School, Nallur, during the academic year 1980-1981, this Court by an order dated 31.01.2018 had directed the learned Government Pleader to send the certificate for verification to ascertain as to whether the official who counter signed was actually there during the material time. The appropriate Educational Authority was also directed to conduct an enquiry and submit a report to this Court by 27.02.2018.

8. Pursuant to the said order, the Education Certificate produced by the respondent was sent for verification and the District Elementary Educational Officer, Sivagangai has filed a report after conducting an enquiry. The said report reveals that there was no Panchayat Union Middle School at Nallur and it is also stated in the said report that the only Middle School that was functioning in Nallur Village was St.Joseph's Middle School, which was functioning as an Aided School from 1953. It is also stated that the Official, viz S.Sappani Assistant Educational Officer, llayangudi, who has counter signed the certificate produced by the respondent did not serve in the capacity of AEO at llayangudi, during the relevant period i.e. on 10.01.1982. The report of the District Elementary Educational Officer, Sivagangai dated 06.04.2018 also reveals that the respondent had not studied at St.Joseph's Middle School also. The Head Mistress of St.Joseph's Middle School, Nallur has also informed the Assistant Elementary Education Officer, llayangudi that the respondent was never a student of the said School and no certificate was issued to her from the said School. The records maintained by St.Joseph's Middle School for the academic year 1980-1981 has also been produced and the respondent's name does not find a place in the said records also. A list of Panchayat Union Middle Schools that are functioning in the llayangudi block has also been produced along with the report, the same also shows that there is no Panchayat Union Middle School in existence at Nallur Village as claimed by the respondent. Therefore, it is clear that the Educational Certificate produced by the respondent claiming that she has studied upto 8th standard at Panchayat Union Middle School, Nallur is a bogus certificate.

9. In view of the same, we find that the learned Single Judge was not right in setting aside the order removing the respondent from service. In view of the above said conclusions, we are constrained to interfere with the order of the learned Single Judge, the order of the learned Single Judge is accordingly set aside. The Writ Appeal stands allowed and the Writ Petition in WP No.13341 of 2006 will stand dismissed. However, in the circumstances of the case there will be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

jv

To

1. The Principal Commissioner and Revenue Administration Commissioner Ezhilagam, Chempauk, Chennai 5.
2. The District Collector, Ramanathapuram.
3. The District Revenue Officer, Ramanathapuram.

+lcc to Mr.S.PARTHASARATHY, Advocate, S.R.No.36517

+lcc to the Government Pleader, S.R.No. 37005

W.A.No.938 of 2015
and MP No.1 of 2015

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