

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2018

CORAM :

The Hon'ble Mrs.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE M.DURAIWAMY

W.P. No.12813 of 2017

G.Ambethkar

.. Petitioner

-vs-

- 1.The Registrar,
The Central Administrative Tribunal,
Chennai-104.
- 2.The Union of India,
rep. by Chief Secretary to Government,
Government of Puducherry,
Chief Secretariat,
Goubert Avenue,
Puducherry - 1.
- 3.The Secretary to Government (Agri),
Government of Puducherry,
Chief Secretariat,
Goubert Avenue,
Puducherry - 1.
- 4.The Director of Agriculture,
Puducherry - 1.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus calling for the records relating to the order passed in O.A.No.1713 of 2016, dated 31.03.2017 on the file of the first respondent and quash the same.

For Petitioner

: Mr.D.Sreenivasan

For Respondents

: Mr.R.Syed Mustafa
Spl. Government Pleader
(Pondicherry)
for respondents 2 to 4

ORDER

(Order of the Court made by The Hon'ble Chief Justice)

The petitioner has directed this petition against the order of the Tribunal dated 31.03.2017. By the said order, the O.A. preferred by the petitioner came to be dismissed. In the said O.A., the petitioner had prayed for quashing the termination notice dated 18.10.2016 issued under Section 5(1) of the Central Civil Services (Temporary Service) Rules, 1965. In the said notice, it was informed that he shall be terminated with effect from the date of expiry of a period of one month from the date on which the notice was served on him. It is an admitted fact that thereafter, on 18.11.2016, the petitioner has been terminated.

2. Learned counsel for the petitioner submitted that by an order dated 12.02.2010, the petitioner was appointed as Mazdoor on regular basis. Learned counsel for the petitioner submitted that as the petitioner was regularly appointed, disciplinary enquiry ought to have been held before he was terminated and termination without enquiry has to be set aside.

3. The contention of the learned counsel for the petitioner that the petitioner was appointed as Mazdoor on regular basis is not correct. A perusal of the appointment order dated 12.02.2010, shows that the said appointment was purely on temporary and ad-hoc basis and it was subject to the outcome of the Court case in W.A.No.2326 of 2005 in W.P.No.18615 of 2005; W.P.No.596 of 2006; W.P.No.10134 of 2009; W.P.No.14784 of 2009 and W.P.No.14894 of 2009 pending before the High Court, Madras.

4. Learned counsel for the petitioner further submitted that even if he is a temporary employee, he could not have been removed until he was proved guilty in an enquiry. In support of this contention, learned counsel for the petitioner placed reliance on a decision of the Supreme Court in the case of Hari Ram Maurya v. Union of India and others, reported in (2006) 9 SCC 167, wherein it is stated that even if the employee was a temporary employee, enquiry had to be conducted and only thereafter, he could be removed. It is noticed that in Hari Ram Maurya case, it was a case of bribery. It was in these circumstances, that the Supreme Court has held that it is necessary to hold an enquiry and thereafter act in accordance with law. In the present case, there is no allegation against the petitioner of bribery, hence, the decision is not applicable to the case of the petitioner.

5. From the appointment order, it is seen that the petitioner was not regularly appointed as Mazdoor, but he was appointed purely on temporary and ad-hoc basis. In such case, the CCS (Temporary Service) Rules, 1965 would be applicable to the petitioner. Rule 5(1)(a) of CCS (Temporary Service) Rules, 1965 reads as under:

"5. Termination of temporary service. -

(1)(a) The services of a temporary Government servant shall be liable to termination at any time by a notice in writing given either by the Government servant to the appointing authority or by the appointing authority to the Government servant."

Thus, the Rules do not contemplate any necessity of holding an enquiry and the temporary Government servant can be terminated by just giving a notice in writing to the employee.

6. A perusal of the appointment order dated 12.02.2010, makes it clear that the petitioner was initially appointed as Casual Labourer in the office of the Additional Director of Agriculture, Karaikal. Thereafter, he was appointed as Mazdoor with effect from 04.2.2010, subject to the outcome of the Court Case in W.A.No.2326 of 2005 in W.P.No.18615 of 2005; W.P.No.596 of 2006; W.P.No.10134 of 2009; W.P.No.14784 of 2009 and W.P.No.14894 of 2009 pending before the Madras High Court and also subject to the terms and conditions stipulated in the Memo dated 03.2.2010 of the Recruitment Committee. One of the conditions stipulated in the Memo reads as under:

"He/She will be liable for terminating from service if it is found that he/she was guilty of misconduct involving moral turpitude, which would disqualify him/her to Government service. If it is found that he/she had suppressed any fact for entry into Government service or if any declaration given or information furnished by the candidate proved to be false, he/she shall be liable to be discharged from service and such other action as Government may deem necessary."

(emphasis supplied)

7. It is pertinent to note that after the appointment as Mazdoor, the petitioner submitted his Attestation Form on 27.5.2010. In paragraph 11(i), he had replied in the negative to the following questions:

"(a) Have you even been arrested?	...	No
(b) Have you even been prosecuted?	...	No
(c) Have you ever been kept under detention?	...	No

(d) Have you ever been bound down? ... No

.....

(h)

(i) Is any case pending against you in the Court of law at the time of filling up this attestation form? ...

No"

8. From discreet enquiry about the character and antecedents of the petitioner, it was revealed from the copy of the report received from the Police department on 06.1.2012 that he was involved in four criminal cases and one security proceedings case before appointment and was a rowdy sheeter of Nedungadu Police Station since 13.7.2011. The details of the 4 criminal cases are as under:

1. Cr.No.13 of 2002 under Section 324 IPC.

2. Cr.No.20 of 2002. In this Bond was executed by the petitioner under Section 107 Cr.P.C.

3. Cr.No.31 of 2011 under Sections 341, 294, 323, 324 (which was pending trial on date report was submitted)

4. Cr.No.50 of 2011 under Sections 294, 323, 324, 506(ii) IPC read with 34 IPC, dated 09.7.2011.

The facts of the first two cases were suppressed by the petitioner in his Attestation Form. In the Attestation Form, he has stated in the negative about being prosecuted or having executed a bond.

9. On a perusal of the Attestation Form, which was produced by the learned Special Government Pleader (Pondicherry) appearing for the respondents, it is seen that on the very first page itself, the petitioner had affixed his photograph against the warning column, which clearly states as under:

"1.The furnishing of false information or suppression of any factual information in the Attestation Form would be a disqualification and is likely to render the candidate unfit for employment under the Government.

2.If detained, arrested, prosecuted, bound down, fined convicted, debarred, acquitted etc., subsequent to the completion and submission of this form, the details should be communicated immediately to the authorities to whom the Attestation Form has been sent early, failing which it will be deemed to be a suppression of factual information.

3.If the fact that false information has been furnished or that there has been suppression of any factual information in the Attestation Form comes to notice at any time during the service of a person, his services would be liable to be terminated."

10. The whole idea of verification of character and antecedents is that the person suitable for the post in question is appointed. Information given to the employer by a candidate as to conviction, acquittal, arrest, pendency of a criminal case etc. whether before or after entering into service must be true and there should be no suppression or false mention of required information. The Supreme Court in Avtar Singh v. Union of India and others, reported in (2016) 8 SCC 473 has observed as under:

"Once a verification form requires certain information to be furnished, declarant is duty bound to furnish it correctly and any suppression of material facts or submitting false information, may by itself lead to termination of his services or cancellation of candidature."

11. In the present case, the petitioner was involved in not one but four criminal cases. Two of them were before he filled the attestation form. Thereafter, he was again involved in two other criminal cases. The petitioner has clearly given false information in relation to his criminal antecedents. Undoubtedly, the petitioner has demonstrated lack of integrity and has conducted himself in a manner unbecoming of a Government servant.

12. In view of the above, we are of the opinion that the respondents have rightly issued the termination notice dated 18.10.2016 as well as the order of termination dated 18.11.2016. No case is made out for interference.

The writ petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS v)

//True Copy//

Sub Assistant Registrar

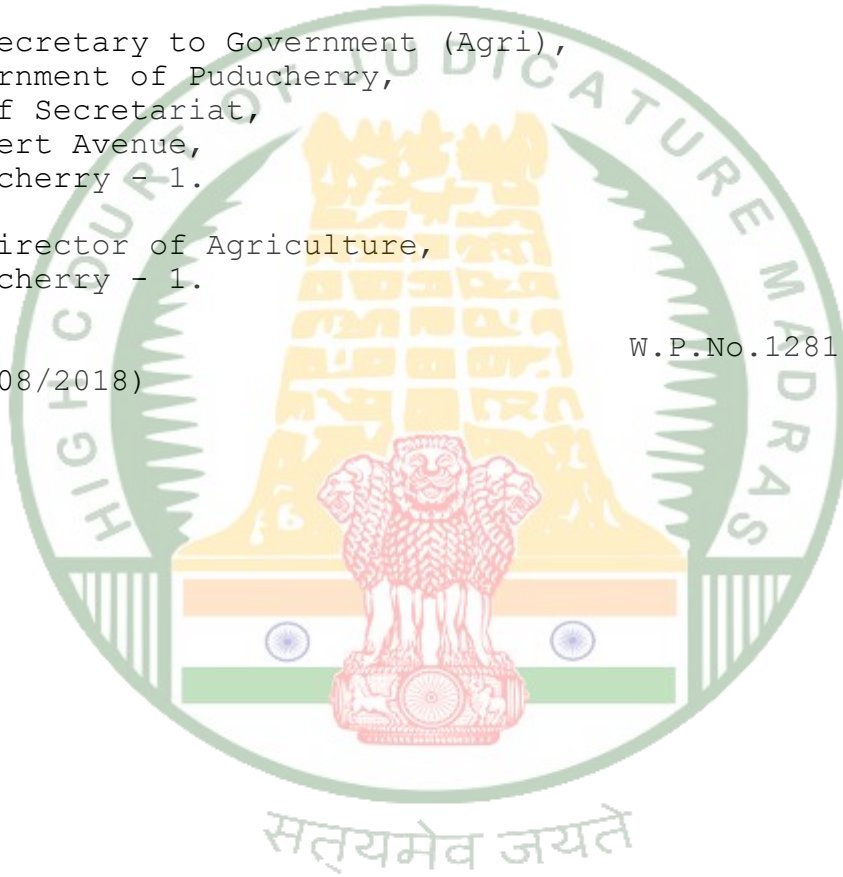
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To

- 1.The Registrar,
The Central Administrative Tribunal,
Chennai-104.
- 2.The Chief Secretary to Government,
Government of Puducherry,
Chief Secretariat,
Goubert Avenue,
Puducherry - 1.
- 3.The Secretary to Government (Agri),
Government of Puducherry,
Chief Secretariat,
Goubert Avenue,
Puducherry - 1.
- 4.The Director of Agriculture,
Puducherry - 1.

ASK(28/08/2018)

W.P.No.12813 of 2017



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