

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.41909 of 2006

E.Munusamy

... Petitioner

Vs.

- 1.The Government of Tamil Nadu rep. by the  
Secretary to the Government,  
Revenue Department,  
Fort St.George, Chennai - 600 009.
- 2.The Special Commissioner and Commissioner of  
Revenue Administration, Chepauk, Chennai - 600 005.
- 3.The Additional Director (Revenue Administration),  
Disaster Management & Mitigation Department,  
Chepauk, Chennai - 600 005. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the second respondent in A.Na.1(1)/ 13751/2006 dated 7-6-2006 confirming the order passed by the third respondent in Na.Ka.A.Na.1 (1)/6877/2003 dated 30-1-2006 and quash the said orders and direct the respondents to reinstate the petitioner in service with all attendant benefits.

For Petitioner : Mr.K.P.Mageshkumar  
for Mr.P.Rajendran

For Respondents : Mr.K.Ravikumar for R1 to R3  
Additional Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the second respondent in A.Na.1(1)/ 13751/2006 dated 07.06.2006 confirming the order passed by the third respondent in Na.Ka.A.Na.1 (1)/6877/2003

dated 30.01.2006 and to quash the said orders and to direct the respondents to reinstate the petitioner in service with all attendant benefits.

2.The case of the petitioner is that the petitioner was appointed as Basic Servant on 27.09.1981 and was transferred to the Land Administration Department on 13.09.1983. Thereafter, the petitioner was appointed as Office Assistant in the Office of the Commissioner of Prohibition and Excise, Chennai with effect from 30.10.1986 and was transferred to the Department of revenue Administration with effect from 15.05.2002. Whiles, on 07.11.2002, the petitioner was called upon to submit his educational qualification certificate and medical fitness certificate for the purpose of opening service register. The petitioner also submitted his transfer certificate. However, the Head Master of the School in which the petitioner studied on request of the Revenue Administration Department sent a report that the said transfer certificate was not a genuine one.

3.It is the further case of the petitioner that thereafter a charge memo dated 25.02.2003 under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, was issued to the petitioner. The petitioner submitted his explanation for the same on 07.05.2003 denying the charges. Thereafter, a detailed enquiry was conducted and the petitioner was imposed with the punishment of dismissal from service vide order of the third respondent dated 30.01.2006. Challenging the said order, the petitioner preferred appeal before the second respondent and the second respondent vide order dated 07.06.2006 rejected the petitioner's appeal. Challenging the said order, the petitioner preferred revision to the Government on 03.07.2006. Since no order was passed on the same, the petitioner has come forward with this writ petition.

4.The respondents have filed counter stating that the petitioner is a candidate from the retrenched list sponsored by the Collector of Chennai District and was appointed as Office Assistant in the office of the second respondent vide proceedings dated 29.07.1981. Subsequently, the petitioner was transferred to the Land Administration Department, where he worked from 13.09.1983 to 04.04.1984. The petitioner stayed away from duty unauthorisedly with effect from 05.04.1984 to 26.12.1985 and thereafter, he was transferred to Prohibition and Excise Department, a unit of the office of the second respondent with effect from 30.10.1986 and thereafter was transferred to the office of the second respondent with effect from 15.05.2002.

5.The counter further states that on 07.11.2002, the petitioner was directed to submit his educational certificates and medical fitness certificate in order to open a new service

register and the petitioner submitted his transfer certificate, which on verification was found to be not genuine. Hence, charge memo dated 25.02.2003 under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, was issued to the petitioner. The petitioner submitted his explanation for the same on 07.05.2003. Thereafter, after a detailed enquiry, vide order of the third respondent dated 30.01.2006, the petitioner was dismissed from service based on the proven charges. That order was confirmed by the second respondent on 07.06.2006.

6.The counter further states that though several years have elapsed from the date of appointment, the petitioner failed to take steps for opening a service register. Therefore, the petitioner was drawing only a minimum pay in the cadre of Office Assistant. If the petitioner insisted for opening the service register earlier, his certificates would have been got verified at that time itself.

7.I have heard the arguments advanced on either side and perused the entire materials available on record.

8.It is not the case that no opportunity was given to the petitioner to put forth his case. There is also no allegation with regard to the manner in which there is violation of principles of natural justice. It is a clear case that the petitioner though earlier worked in Land Administration Department and thereafter in the Office of the Commissioner of Prohibition and Excise, Chennai did not initiate any steps to open service register. Thereafter, the second respondent initiated steps to open service register for the petitioner. Thereafter, the petitioner submitted his transfer certificate, which on verification was found to be not genuine.

9.In the absence of any positive materials before this Court and when two fact finding Authorities have come to the same conclusion based on the facts, this Court is not inclined to interfere with the findings of the fact finding Authorities in a mechanical manner under Article 226 of the Constitution of India.

10.The writ petition is accordingly dismissed. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

pri

To

- 1.The Government of Tamil Nadu rep. by the  
Secretary to the Government,  
Revenue Department,  
Fort St.George, Chennai - 600 009.
- 2.The Special Commissioner and Commissioner of  
Revenue Administration, Chepauk, Chennai - 600 005.
- 3.The Additional Director (Revenue Administration),  
Disaster Management & Mitigation Department,  
Chepauk, Chennai - 600 005.

+1cc to Mr.P.Rajendran, Advocate Sr.49444  
+1cc to the Government Pleader Sr.49397

W.P.No.41909 of 2006

srg 10/08/2018



WEB COPY