

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2018

C O R A M

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

WP.No.478 of 2016

and

WMP.Nos.327, 328 of 2016 & 335 of 2017

D.Suresh

...Petitioner

Vs.

1.The Zonal Joint Director
Animal Husbandry Department,
Vellore-4

2.The Assistant Director,
Animal Husbandry Department,
Vellore-4

... Respondents

PRAYER

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relevant to the order in Na.Ka.No.810/A/2012 dated 17.12.2015 passed by the 2nd respondent and quash the same.

For Petitioner : Mr.C.V.Kumar

For Respondents : M/s.A.Srijayanthi,
Special Government Pleader

O R D E R

The show cause notice issued by the second respondent in proceeding dated 17.12.2015 is under challenge in this writ petition.

2. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner was appointed as an Assistant in the respondent department in proceedings dated 16.07.2012. He is working as Assistant in the Melarampattu Animal Husbandry Medicinal Shop and discharging his duties to the satisfaction of his superiors. The impugned Show Cause Notice was issued in proceedings dated 17.12.2015 stating that the writ petitioner has tampered the mark sheet submitted by him before the department and certain corrections were carried out

by tampering the mark sheet. It is further stated in the impugned notice that at the time of initiating action for regularising the service of the writ petitioner, the SSLC mark sheet submitted by the writ petitioner was sent for verification to the Educational Authorities and subsequently it was found that the mark sheet submitted by the writ petitioner was tampered, while it was verified with the originals maintained by the Education Department.

3. In this view of the matter, the impugned Show Cause Notice was issued to the writ petitioner seeking his explanations in respect of the report received from the Education Department regarding tampering of the SSLC mark sheet. The writ petitioner has submitted his explanation on 29.12.2015. Even before passing final orders by the competent authorities, the writ petitioner has chosen to file this writ petition mainly on the ground that the allegation of tampering is unconnected with the appointment of Assistant. The qualification of SSLC is not required for appointment to the post of Veterinary Assistant. Further in respect of allegation of tampering of the mark sheet, the writ petitioner has not been benefited. Therefore, there is no point in initiating action against the writ petitioner since the writ petitioner has not used the mark sheet for the purpose of getting appointment.

4. This Court is of an opinion that all these explanations / objections are to be submitted before the competent authorities for consideration.

5. No writ can be entertained against Show Cause Notice in a routine manner. A writ petition against show cause notice can be entertained only on exceptional circumstances, wherein the show cause notice is issued by an incompetent authority having no jurisdiction or an allegation of malafides are raised or if the same is in violation of the statutory rules in force. Even in the case of raising an allegation of malafides, the authority against whom such an allegation is raised, to be impleaded as a party respondent in his personal capacity in the writ proceedings. In the absence of all these legal grounds, no writ can be entertained against show cause notice.

6. In the present case on hand, the writ petitioner claims that he is not the beneficiary from and out of the alleged tampered mark sheet. Thus, there is no necessity for the authorities to issue show cause notice.

7. This Court is of an opinion that any person appointed in a Government Service becomes a public servant. Thus, he is bound by the Conduct Rules issued by the Government. Public servant facing an allegation of tampering of mark sheet has to undergo disciplinary proceedings. However, the impugned order

is a show cause notice issued seeking explanations from the writ petitioner.

8. Thus, it is left open to the writ petitioner to submit his explanations / objections and participate in the enquiry proceedings to be conducted by competent authorities.

9. In this regard, the learned counsel for the writ petitioner states that the representation has already been submitted.

10. However, if necessary, the writ petitioner is at liberty to submit further representation setting out all the details in relation to allegation of tampering of SSLC mark sheet. The competent authorities are also at liberty to proceed with the departmental disciplinary proceedings in accordance with law and by providing opportunity to the writ petitioner.

11. In this view of the matter, no further adjudication is required in respect of the grounds raised in this writ petition.

12. Accordingly, this writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Zonal Joint Director
Animal Husbandry Department,
Vellore-4

2.The Assistant Director,
Animal Husbandry Department,
Vellore-4

+1cc to Mr.M.Kumaravel, Advocate in sr.no.30846
+1cc to Government Pleader in sr.no.31223(28/05/2018)

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nr 16/05/2018