WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.(MD) No.486 of 2015

C.Ayyappan ... Petitioner

vs.

1. The Deputy General Manager,
   Syndicate Bank,
   105-106, Ponnurangam Road,
   R.S.Puram,
   Coimbatore- 641 002

2. The Branch Manager,
   Karungal Branch,
   Syndicate Bank,
   Kanyakumari District 629 157 ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Mandamus, directing the respondents herein to dispose of the representation of the petitioner dated 01.09.2014 seeking reinstatement as jewel appraiser in the second respondent branch.

For Petitioner : Mr.R.Vijayakumar
For Respondents : Mr.P.Jeyaraman

O R D E R

Heard the learned counsel for the writ petitioner.

2. This writ petition is filed challenging the order of termination passed by the second respondent herein. The record reveals that the writ petitioner was appointed as jewel appraiser vide order dated 23.07.2008. Later his service was terminated on 06.11.2018, hardly after three months. Challenging the terminator simpliciter the writ petitioner here in earlier filed a writ of certiorified mandamus before this Court, wherein this court vide order dated 23.07.2009 directed the respondent to consider the representation for reinstatement and if the respondent is satisfied with the request, may reinstate him as jewel appraiser. Pursuant to the High Court direction the representation of the writ petitioner

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

has been considered by the first respondent and rejected his representation. While rejecting the representation the first respondent has stated two reasons also. Which according to the writ petitioner is factually incorrect. It is contended that due to malafide reasons the respondents has terminated his service and also rejected the representation by stating irrelevant reasons and factually incorrect reasons. This Court without adverting the reasons assigned by the respondents by an impugned order disposed the writ petition for the following reasons:

a) The appointment order does not indicate any expectation of permanency of the post. The job is purely based on commission and remuneration is on piece rate.

b) Clause (iv) of the appointment letter clearly indicate that the writ petitioner is permitted to appraise the jewels on commission as mentioned above and he is not an employee of a bank and consequently will not be entitled to any benefit by or confirmed by the bank employee.

3. The discretion of the respondent in terminating contract with the writ petitioner is within the terms of the contract. This court has no say to interfere with their discretion through exercising Article 226 of Constitution of India. It is settled long back by the Honourable Supreme Court in ***Lekhraj-vs- Deputy Custodian*** reported in ***AIR 1966 SC 334*** followed in ***National Textile Corporation Ltd and others -vs- M/s.Haribox Swalaram*** and others that duty or obligation falling upon public servant out of a contract entered into by him cannot be enforced by mandamus. Hence Writ Petition is dismissed.

4.It is made clear that the reasons stated by the respondent bank in the impugned order of termination shall not stand in the way of future employment of the petitioner as jewel appraiser elsewhere.

5. In the result, the Writ Petition is dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Deputy General Manager,
   Syndicate Bank,
   105-106, Ponnurangam Road,
   R.S.Puram,
   Coimbatore- 641 002

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

2. The Branch Manager,
   Karungal Branch,
   Syndicate Bank,
   Kanyakumari District 629 157

+ 1 CC TO Mr.R.VIJAYAKUMAR, ADVOCATE IN SR No. 94876

AAV
TE/BK/SAR-1 : 14/12/2018 : 3P/4C

W.P.(MD) No.486 of 2015
12.11.2018

https://hcservices.ecourts.gov.in/hcservices/