



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9073 of 2015

and

MP(MD)Nos.2 & 3 of 2015

Muthirulan

... Petitioner

Vs.

1. The Secretary to Government,
Backward Classes, Most Backward
Classes and Minority Welfare
Department,
Secretariat, Fort.St.George,
Chennai - 600 009.

2. The Commissioner,
Most Backward Classes and
Denotified Communities
Welfare Department,
Ezhilagam, Chennai - 600 005.

3. The Joint Director,
Kallar Reclamation,
Collectorate Buildings,
Madurai - 625 020.
(cause title amended vide
Court order dated 18.12.2017
in WMP(MD)No.18268 of 2017)

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent in Na.Ka.No.H10/14954/2011-2 on 12.04.2013 and subsequent second respondent's proceedings in Se.Mu.No.C1/67/2011 on 05.05.2015 and quash the same and consequently direct the respondents to reinstate the petitioner as Assistant Cook post in Government Kallar Boys Hostel, Pappapatti and regularise the petitioner's service with all attendant monetary benefits.

(Prayer amended vide Court order dated 18.12.2017
in WMP(MD)No.18267 of 2017)

For Petitioner

: Mr.K.Gurunathan

For Respondents

: Mr.J.Gunaseelan Muthaiah,
Addl.Govt.Pleader

**ORDER**

The petitioner was appointed as a Assistant Cook on 20.01.2006. He was placed under suspension on 15.11.2011. Charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) was issued on 21.11.2011 on the ground that he produced bogus school certificate and got employment. The enquiry officer however gave his findings in favour of the delinquent. However, the third respondent herein by order dated 12.04.2013 imposed the punishment of stoppage of increment for three years with cumulative effect and the suspension period was treated as a punishment period. The petitioner joined duties on 12.04.2013. While so, after two years, on 05.05.2015, the second respondent herein passed the impugned order removing the petitioner from service. The same is assailed in this writ petition.

2. Heard the learned counsel on either side.

3. The learned counsel appearing for the petitioner pointed out that the petitioner could not have gained anything by producing a bogus school certificate. This is because, for appointing a person as a Cook, the only qualification that is required is ability to read and write in Tamil and sufficient practical experience in cooking. No educational qualification has been prescribed. The petitioner obviously did not gain any advantage by producing a bogus school certificate. That is why the enquiry officer gave a finding in favour of the petitioner. Be that as it may, the second respondent could not have taken a *suo motu* revision without putting the petitioner on notice.

4. This Court finds force in the said submission. The learned counsel appearing for the petitioner submits that the Revisional Authority could not have taken *suo motu* revision and removed the petitioner from service without giving notice to the petitioner. The order dated 05.05.2015 was passed without hearing the petitioner. Thus, there has been a violation of principles of natural justice. On this ground, the order dated 05.05.2015 passed by the second respondent is quashed.

5. The learned counsel for the petitioner submits that though he has challenged both the impugned orders of the third and second respondent, he is confining his claim against the order dated 05.05.2015. The writ petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar



To

1. The Secretary to Government,
Backward Classes,
Most Backward Classes and
Minority Welfare Department,
Secretariat, Fort.St.George, Chennai - 09.

2. The Commissioner, Most Backward Classes and
Denotified Communities Welfare Department,
Ezhilagam, Chennai - 600 005.

3. The Joint Director, Kallar Reclamation,
Collectorate Buildings, Madurai - 625 020.

+1cc to SPECIAL GOVERNMENT PLEADER, SR.No.53626

Skm

MK/TE/SAR 1/12.07.2018/3P/5C

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and
MP(MD) Nos.2 & 3 of 2015
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