

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2019

CORAM:

THE HONOURABLE Mr. JUSTICE D.KRISHNAKUMAR

W.P. No. 14932 of 2010

R. Sundararajan

... Petitioner

-Vs-

1. The Personal Assistant (General)
to the District Collector,
Perambalur District,
Perambalur.

2. The District Revenue Officer,
Perambalur District,
Perambalur.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorari to call for the records of the respondents 1 and 2 in connection with the impugned orders passed by them in Na.Ka.No.A3/25879/2008 dated 15.12.2009 and Na.Ka.No.A3/10/2010 dated 29.05.2010 respectively and quash the same.

For Petitioner : Mr. C. Prabakaran

For Respondents : Mr. A. Ansar
Government Advocate

सत्यमेव जयते
O R D E R

The petitioner has preferred the writ petition to quash the impugned orders passed by the first and second respondents in Na.Ka.No.A3/25879/2008 dated 15.12.2009 and Na.Ka.No.A3/10/2010 dated 29.05.2010.

2. It is a case of the petitioner that, the petitioner has studied in Kulathur Panchayat Union Middle School, Kolathur, Alathur Panchayat Union in the year 1974 and completed his studies upto VIII standard and got himself discharged from the school in the year 1983. The petitioner obtained his Transfer Certificate from the Panchayat Union Middle School, Kulathur, to show his studies from 01.10.1974 to 31.05.1983 and got his name

registered in the employment exchange and the same certificate has been produced to show his educational qualification for having studied upto VIII standard. The certificate of the petitioner was duly attested by the Assistant Educational Officer, Alathur on 01.08.1989 and the same was verified after joining in the District Collectorate.

3. The petitioner submits that, he was serving as driver for the Revenue Divisional Officer and PA (General) to the Collector. But unfortunately, some of the vested interests, who had personal animosity against the petitioner for serving with the higher officials in the District Collectorate, have sent a petition against him stating that, the petitioner has produced a bogus Educational Certificate for the purpose of securing employment. According to the petitioner, no preliminary enquiry was conducted. Therefore, the first respondent issued a charge memo No. A4/25823/2005 dated 05.07.2007 stating that, based on the report of the District Elementary Educational Officer, Ariyalur in Na.Ka.No. 1714/A2/04 dated 08.02.2006, the petitioner, without having educational qualification, produced bogus school certificate and got Government employment.

4. The petitioner, after receiving the charge memo, submitted a detailed explanation denying the charges. The first respondent, by his proceedings dated 30.10.2006, has appointed the Tahsildar, Veppanthattai as the Enquiry Officer to conduct an oral enquiry against the petitioner in the charge memo proceedings issued to him. It is further submitted that, the Enquiry Officer has summoned the petitioner to appear for an oral enquiry on 27.12.2006 and he appeared and gave his statement and no one was examined on the side of the Department to prove that, the petitioner has produced a bogus certificate for the purpose of securing employment and cheated the Government.

5. It is to be pointed out that in the enquiry, the Enquiry Officer had relied on materials, which were not made available to the petitioner to give his response. Therefore he filed a Writ Petition in W.P. No. 3999 of 2008 before this Court and on 15.12.2008, this Court has passed the following order:

"5. In these circumstances, the writ petition is disposed of as follows:

The further proceedings pursuant to the enquiry report shall be kept in abeyance until the respondents afford the petitioner an opportunity to examine the school records and if he has any explanation to offer with regard to the material alternations referred to in the enquiry report, the respondents may consider the same and finalize the enquiry report. Thereafter, the entire exercise shall

be concluded within a period of four weeks from the date of receipt of a copy of this order. After that, the respondents are entitled to take action in accordance with law."

6. Thereafter, the first respondent passed an impugned order on 15.12.2009 by dismissing the petitioner from the service. Aggrieved by the aforesaid dismissal order passed by the first respondent, the petitioner has preferred an appeal before the second respondent and the same has also been dismissed on 29.05.2010. Hence, challenging the aforesaid orders of the respondents, the present writ petition has been filed.

7. The learned counsel appearing for the petitioner has raised a ground that, the respondents have not duly considered the earlier report submitted by the Educational Officer, Alathur dated 27.07.2004 and also the Appellate Authority has no powers to examine any witness without giving an opportunity to the petitioner. But, during the enquiry, the second respondent / Appellate Authority has not given any opportunity to the petitioner to cross-examine the witnesses. Hence, there is a violation of principles of natural justice. Moreover, the allegation of the respondents is that, the school records were manipulated and produced the bogus certificate before the authority.

8. The learned Government Advocate appearing for the respondents has submitted before this Court that the petitioner has appeared before the Enquiry Officer. At the time of serving the show cause notice to the petitioner, the same was challenged by the petitioner by filing W.P. No. 3999 of 2008 before this Court. This Court by order dated 15.02.2008 has directed the respondents to permit the petitioner to examine the school records and if any explanation given by him, the same shall be considered at the time of passing the final order.

9. It is a fact that, the petitioner has examined the said records and submitted his explanation before the Enquiry Officer. Therefore, the contention of the petitioner that, opportunity has not been granted to him is contrary to the aforesaid facts and the charge memo has been framed by the respondents, based on the report submitted by the District Educational Officer. Therefore, the ground raised in the writ petition is unsustainable and the same is liable to be rejected.

10. On analyzing the aforesaid facts submitted by the learned counsel appearing for the parties, the contention that, the report of the Assistant Educational Officer has not been considered by the respondents, cannot be a valid ground to set aside the impugned order. The respondents of course relied

upon the report submitted by the District Educational Officer. Based on the said report, charges had been framed and the petitioner also submitted his explanation. The petitioner had already challenged the charge memo in W.P. No. 3999 of 2008.

11. The further contention of the learned counsel for the petitioner is that, at the time of enquiry, the Head Master was examined, but the petitioner was not permitted to cross examine the said Head Master. Admittedly, the petitioner has not raised any objection at the time of enquiry conducted by the Enquiry Officer. Further, the petitioner has also challenged the charge memo and subsequently challenged the show cause notice issued by the respondents for imposing the punishment. Therefore, the said contention of the petitioner cannot be accepted and the same is also rejected.

12. Another ground raised by the petitioner is that based on the report of the District Educational Officer, he was not permitted to furnish the school records, therefore, the impugned order passed is in violation of the principles of natural justice.

13. A perusal and scrutinization of the documents in respect of the petitioner itself speaks that, the petitioner has challenged the charge memo before this Court in W.P. No. 3999 of 2008. While disposing of the said Writ Petition, this Court has not interfered with the charge memo issued to the petitioner, but a direction has been granted by the Court to the respondents to permit the petitioner to examine the school records and after perusal of the said records, if any explanation made by the petitioner, the same shall be considered at the time of passing the final order, therefore, the contention raised by the petitioner against the respondents that, the respondents have not furnished the school records to the petitioner, at this stage, cannot be entertained by this Court. There is no force in the said contention of the petitioner.

14. As far as the other contention raised by the learned counsel appearing for the petitioner that, the petitioner has produced only genuine certificate and it is not a bogus one is concerned, this Court has raised a pertinent question to the learned counsel for the petitioner, whether the petitioner has knowledge about the manipulation of the school records and if yes, why no action has been taken by the petitioner to approach the concerned authority.

15. It is answered by the learned counsel for the petitioner that, initially the petitioner has made a complaint before the Competent Authority to investigate the said matter

and further to establish that the petitioner was not involved in the aforesaid offence. In any event, since there is no genuine attempt made by the petitioner to show his bonafide and the impugned order has been passed based on the findings in the enquiry, this Court is not inclined to interfere with the impugned order passed by the respondents and the writ petition is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vji

To

1. The Personal Assistant (General)
to the District Collector,
Perambalur District,
Perambalur.
2. The District Revenue Officer,
Perambalur District,
Perambalur.

+lcc to the Government Pleader Sr.93393
+lcc to Mr.N.Anand, Advocate Sr.92963

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