

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 21.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

WP.No.27802 of 2005

S.Ramasamy

...Petitioner

Vs

1.The Additional Commissioner of
Revenue Administration, Disaster
Management and Mitigation Dept.,
Chepauk, Chennai 600 005.

2.The Collector,
Pudukottai,
Pudukottai District.

3.The Personal Assistant (General)
to the Collector,
Collectorate, Pudukottai
Pudukottai District.

...Respondents

PRAYER: Writ 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 First Respondent in Na.Ka.No.Pani4(2)23411/05 dated 03.06.2005 confirming the order issued by the Second Respondent in Na.Ka.A5/20593/2003 dated 07.02.2005 confirming the order of Dismissal from service issued by the Third Respondent in Na.Ka.A5/20593/2003 dated 12.10.2004 and quash the same and direct the Respondents to reinstate the Petitioner in service with all attendant benefits.

For Petitioner : Mr. P.Rajendvan

For Respondents: Mrs.K.Bhuvaneswari, AGP

O R D E R

The petitioner, who initially joined as a Basic Servant 25.04.1981, has been charged of having produced a bogus Education Certificate, evidencing that the petitioner had passed 8th standard. Since the Tamil Nadu Basic Service Rules

prescribed a minimum education qualification of 8th standard and the petitioner herein, had studied only 6th standard, by producing the bogus certificate, he had cheated the Government and obtained employment. After enquiry, the petitioner herein was dismissed from service and the appeal against the dismissal order was also rejected. Hence the present Writ Petition.

2.The learned Counsel for the petitioner submitted that originally the Enquiry Officer had held the charges against the petitioner as not proved. However, the 3rd respondent, without assigning any reasons had taken a contrary view, which is illegal and unjustifiable. According to the learned counsel for the petitioner, the disciplinary proceeding is based on the cancellation order since the cancellation order itself was not given to the petitioner, he is deprived of an opportunity of effectively putting forth his defense. Even otherwise, he submitted that as against the cancellation order of the District Education Officer, he had preferred an appeal and no order has been passed in the appeal till date and therefore the impugned orders are liable to be set aside.

3.The learned Government Advocate, on the other hand, submitted that the enquiry was duly conducted after giving a show cause notice, calling for his explanation and by following the principles of natural justice. Since the minimum educational requirement for a basic servant under Rule 5 (2) of the Tamil Nadu Basic Service Rules is 8th standard, the petitioner herein has willfully produced a bogus certificate as if he has completed 8th standard, whereas, he had studied 6th standard only and hence there was no infirmity in the orders of the authorities.

4.I have given careful consideration on the submissions made by the respective counsels.

5.From the records produced before this Court and on perusal of the counter affidavit and in consideration of the submissions made by the respective counsels, it is seen that the petitioner had initially joined duty as a basic servant on 25.04.1981. Rule 5 (2) of the Tamil Nadu Basic Service Rules lays down the minimum qualification for a Basic Servant post as 8th standard from a recognized school. The petitioner was regularized in the cadre of basic servant with effect from 25.04.1981 and later promoted as Record Clerk on 01.05.1996.

6.On 29.08.1991, the District Education Officer, Aranthangi reported that a false Education Certificate has been provided by the petitioner and his record sheet was also cancelled. Consequently, a show cause notice came to be issued on 19.09.1991, calling upon the petitioner to submit his

explanation. Challenging the show cause notice, the petitioner herein had filed an application in O.A.No.3575 of 1991 before the Tamil Nadu Administrative Tribunal and an order of Interim Stay came to be granted. In view of the Interim Stay, the petitioner herein continued with his employment and the final orders in the original application was passed only on 24.03.2003. In between the period from 24.09.1991 to 24.03.2003, the petitioner was enjoying the benefit of Government service.

7.Subsequently, after the original application was dismissed, the respondents had called upon the petitioner to prove the genuineness of the Education Certificate on or before 30.11.2003. Simultaneously, the petitioner was also reverted from the post of Record Clerk to that of basic servant since he was not in possession of the required Education Qualification. The petitioner herein had submitted his explanation on 25.11.2003, wherein, he had stated that since he preferred an appeal before the Chief Education Officer, Pudukottai, against the order of the cancellation of the record sheet he would render his explanation after final order are passed in the appeal.

8. Not being satisfied with the explanation, charges came to be framed under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules against the petitioner. On the basis of an enquiry held, the Enquiry Officer filed a report stating that the charges against the petitioner were not proved. However, the Disciplinary Authority and the third respondent herein desented from the enquiry officer's report and held that the writ petitioner had not proved the genuineness of his School Certificate and thereby deferred from the findings of the Enquiry Officer and directed the petitioner to submit his further explanation.

9.The petitioner's further explanation was considered and not being satisfied with the same, the respondents thought it fit to enquire into the matter further. After conducting a personal hearing, the first respondent herein had held that the charges against the petitioner were proved and thereby dismissed him from the services, through an order dated 12.10.2004. The appeal against the said dismissal order filed before the Collector, Pudukottai District, also came to be rejected on 07.02.2005 holding that the petitioner had produced a fake, bogus and fabricated record sheet. Challenging these orders, the present writ petition has been filed.

10.The main ground raised by the petitioner in the present writ petition is that the appeal against the cancellation of the record sheet is pending before the Chief Educational Officer, Pudukotai District and therefore, the respondents were not

justified in passing the impugned orders. Highlighting the pendency of the appeal, it is further submitted that the order of cancellation of the record sheet was initially not served on the petitioner, but was given to him after the report of the Enquiry Officer and on the basis of the orders of the Tamil Nadu Administrative Tribunal.

11.The issue involved in the present case is a simple one, with regard to the genuineness of the certificate. The petitioner was simply required to establish that he had studied upto 8th standard and that his certificate was genuine. If the petitioner was of the view that his 8th standard certificate was genuine, nothing prevented him to prove the same before the authorities by way of giving an explanation. By citing the pendency of the appeal before the chief Educational Officer, the petitioner had sought for deferring with the further course of the disciplinary proceedings. This, in my view, are dilatory tactics adopted by the petitioner.

12.When the Enquiry Officer had held that the charges against the petitioner were not proved, a further show cause notice was issued, calling upon him to render his explanation, as to why the findings of the Enquiry Officer should not be deferred. The petitioner had submitted his further explanation and the third respondent thought it fit to enquire into the matter further. After giving an opportunity of personal hearing to the petitioner, the third respondent had held the charges to be proved and imposed the punishment of dismissal from service. The petitioner was also given an opportunity to appeal against the order of the third respondent to the second respondent. Accordingly, when the petitioner herein had filed an appeal to the second respondent, a detailed order came to be passed, whereby the second respondent herein had passed a detailed order, rejecting the petitioner's contention and confirming the order of dismissal. The petitioner was given an opportunity to file a revision before the first respondent herein, which also came to be dismissed on 03.06.2005. As such, it is seen that the petitioner has been extended with ample opportunities and thereby, the principles of natural justice has been duly followed. A mere pendency of an appeal filed before the Chief Educational Officer against the order of cancellation of the record sheet, cannot be cited as a reason by the petitioner for setting aside the impugned orders of the respondents herein. As such, this Court finds no valid reasons to interfere with the concurrent findings of the respondents herein.

13.Though the original show cause notice was issued on the petitioner on 19.09.1991, the petitioner had continued in the services from 1991 to 2003 for more than 12 years, based on the interim orders of the Tamil Nadu Administrative Tribunal and has

enjoyed all the benefits of the Government servant over these years. Since such benefits have been obtained in view of the Court orders, it would not be appropriate to question that service after all these years.

14. In the light of the above discussions, I do not find any reason to interfere with the impugned orders passed by the respondents herein. Hence, the Writ Petition stands Dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

jrs

To

- 1.The Additional Commissioner of
Revenue Administration, Disaster
Management and Mitigation Dept.,
Chepauk, Chennai 600 005.
- 2.The Collector,
Pudukottai,
Pudukottai District.
- 3.The Personal Assistant (General)
to the Collector,
Collectorate, Pudukottai
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+1cc to Government Pleader sr.27490

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