

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.03.2019

Coram

The Honourable Mr. Justice D. KRISHNAKUMAR

W.P.No.10249 of 2014
and
M.P.Nos.1 & 2 of 2014

A.Vinayagamoorthy

...Petitioner

Versus

1.The District Collector,
Tiruvannamalai District, Tiruvannamalai.

2.The Divisional Engineer,
(Highways, Construction and Maintaining)
Tindivanam Road, Tiruvannamalai.

3.The Assistant Divisional Engineer,
(Highways, Construction and Maintaining)
Tindivanam Road, Tiruvannamalai.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the second respondent in his proceedings No.Se.Mu.Ka.No.612/2011/Kamukkam, dated 01.04.2014 and quash the same and consequently, direct the respondents to reinstate the petitioner into service with all attendant and monetary benefits.

For Petitioner : Mr.C.Prakasam

For Respondents: Mr.B.Anand,
Government Advocate

O R D E R

The prayer in the above Writ Petition is to call for the records relating to the order passed by the second respondent, dated 01.04.2014 and quash the same and consequently, direct the respondents to reinstate the petitioner into service with all attendant and monetary benefits.

2.1. The writ petitioner was appointed as Gang Mazdoor in Highways Department at Tiruvannamalai Sub Division (South) in the month of December, 1997. According to him, he was suspended from service on 08.04.2011 by the third respondent herein on the ground that he accompanied MLA in Election Canvass. Thereafter, charges have been framed against him.

2.2. It is the case of the petitioner that since his mother's health was seriously affected, she was admitted in the Government Hospital (GH) and when the petitioner approached the Government Hospital for getting a Special Ward to his mother, he was informed by somebody that if he gets a letter from a local MLA, it will be easy to get admission in the Special Ward in GH. Hence, he approached the MLA Office, where, they informed him that the MLA went Aavur Village. Immediately, he rushed to Aavur and contacted the P.A to MLA for getting recommendation letter, who in turn, he took the petitioner to MLA, who preoccupied in the election canvass. Then, the P.A to MLA introduced the MLA to the petitioner and obtained MLA's signature in the recommendation letter and handed over the same to the petitioner. The said explanation of the petitioner was not accepted by the respondents and they dismissed the petitioner from service vide proceedings No.Se.Mu.Ka.No.612/2011/Kamukkkam, dated 01.04.2014. Challenging the said dismissal order passed by the second respondent, the writ petitioner is before this Court.

3.1. The learned counsel appearing for the petitioner submitted that the petitioner has not accompanied the MLA in the election canvass only due to his mother's ill health, in order to get admit his mother in the Special Ward of Government Hospital, he went to Aavur as he was placed in a situation to meet the MLA, that too, only for the purpose of getting a recommendation letter from the MLA, other than that, there was no necessity to meet the MLA. But the respondent/Authorities wrongly presumed that the petitioner accompanied the MLA in Election Canvass and terminated him from service.

3.2. The learned counsel further submitted that in the meanwhile, on 08.04.2011, the first respondent/District Collector sent a Letter to the second respondent/Divisional Engineer in which the first respondent directed the second respondent to take disciplinary action against the petitioner for having accompanied the MLA in Election Canvass being a Government Servant.

3.3. The learned counsel has also drawn the attention of this Court to a Letter No.8456/2011-39, dated 24.01.2012 addressed to the Director of Collegiate Education by the Chief Electoral Officer & Principal Secretary to Government, wherein

it is seen that in respect of similar nature of charges framed against a delinquent official, punishment of stoppage of increment for one year without cumulative effect was imposed on him. Therefore, the learned counsel prayed that similar punishment may be imposed on the petitioner herein with certain modifications. The learned counsel has also filed an undertaking affidavit in which the petitioner undertakes that he will not participate in any political activities in future and also states that he will not claim any back wages for the non-working period.

4. The learned Government Advocate appearing for the respondents has no dispute over the Letter No.8456/2011-39, dated 24.01.2012 mentioned by the petitioner's counsel.

5. Considering the period of service rendered by the petitioner in the respondent/Department and also taking into consideration of the undertaking affidavit filed by the petitioner's counsel, this Court is inclined to pass the following order:

(i) The undertaking affidavit filed by the petitioner's counsel is taken on record.

(ii) The proceedings issued by the second respondent in No.Se.Mu.Ka.No.612/2011/Kamukkam, dated 01.04.2014 is quashed.

(iii) The second respondent is directed to reinstate the petitioner in service within a period of four weeks from the date of receipt of a copy of this order.

(iv) The petitioner shall not participate in any of the political activities in future, as undertook by him in the undertaking affidavit.

(v) As per the undertaking affidavit, the petitioner is not entitled to claim back wages or continuity of service for the non-working period.

6. This Writ Petition is allowed with the above observations. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

mrr

To

1.The District Collector,
Tiruvannamalai District, Tiruvannamalai.

2.The Divisional Engineer,
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3.The Assistant Divisional Engineer,
(Highways, Construction and Maintaining)
Tindivanam Road, Tiruvannamalai.

+1cc to Mr.C.Prakasam, Advocate SR.No.27844

+1cc to Government Pleader SR.No.28030

W.P.No.10249 of 2014

TM(CO)
GMY(27/05/2019)



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