BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 21.10.2019
CORAM
THE HONOURABLE MR.JUSTICE S.S.SUNDAR
W.P.(MD) No.15616 of 2013

V.Muniyandi ... Petitioner

Vs.

1. The District Collector,
   Virudhunagar District,
   Virudhunagar.

2. The District Revenue Officer,
   Collectorate, Virudhunagar,
   Virudhunagar District.

3. The P.A. to Collector (General),
   Collectorate, Virudhunagar,
   Virudhunagar District.

4. The Revenue Divisional Officer,
   Sivakasi,
   Virudhunagar District. ... 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 relating to the proceedings of the third and second respondents in No.Na.Ka.A5/50307/06 dated 30.04.2010 and Na.Ka.No.A5/12840/2010 dated 27.07.2011 and quash the same and consequently, direct the respondents to treat the period of dismissal of the petitioner as on duty along with attendant benefits including retirement benefits to the petitioner in full.

For Petitioner : Mr.Mohammed Athief,
for M/S.Veera Associates
For Respondents : Mr.D.Muruganandam,
Additional Government Pleader

ORDER

This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus to quash the proceedings of the third and second respondents dated 30.04.2010 and 27.07.2011 respectively and consequently, direct the respondents to treat the period of dismissal of the petitioner as on duty along with attendant and monetary benefits.

2.The petitioner was temporarily appointed as last Grade Government Servant in a leave vacancy on 27.06.1975. Thereafter, he was appointed by the fourth respondent as Watchman from 30.04.1979 to 30.11.1980 and he was promoted on 01.12.1980 as Office Assistant. It is not in dispute that the petitioner was required to have certificate to show that he had completed 7th std for getting the post of Office Assistant. Though the petitioner produced some records to show that he has completed 7th std and discontinued his studies in the middle of 8th std, it is admitted that the petitioner's education qualification was assessed on the basis of documents submitted by him at the time of giving appointment to the petitioner.

3.It appears that the respondent found later that the certificates produced by the petitioner were fake. Hence, show cause notice was issued by the third respondent on 13.12.2006 stating that the petitioner produced fake certificates and obtained appointment and thereby, caused loss to the Government.

4.In the charge memo, issued to the petitioner, four charges were framed against the petitioner revolving around fake certificates produced by the petitioner. Since the charges were refuted by the petitioner, an Enquiry Officer was appointed. After giving full opportunity to the petitioner, the Enquiry Officer concluded his proceedings holding that all the charges against the petitioner are proved.

5.After giving second show cause notice, pursuant to the report, the third respondent passed final order on 30.04.2010 dismissing the petitioner from service.

6.Thereafter, the petitioner preferred an appeal before the second respondent and the same was also dismissed. As against the order passed by the second and third respondent, the petitioner preferred review application before the District Collector, who refused to entertain the same, but directed the petitioner to approach the Chief Secretary and Commissioner of Revenue Administration, Chennai, who in turn, confirmed the order of the second and third respondents. Aggrieved over the same, the present writ petition is filed.

7.The learned counsel for the petitioner submitted that the petitioner challenge the charge memo on the ground that the third respondent has not initiated disciplinary proceedings against the petitioner and that the third respondent alone is competent to remove the petitioner from service. The impugned order is also challenged on the grounds that it was passed without an application of mind and that the petitioner was not provided with materials, which were relevant for him to respond.

8.The learned counsel further submitted that the petitioner was appointed as an Office Assistant by following due process, after proper scrutiny of the certificates. Since records produced by the petitioner were very old, the petitioner is unable to collect documents to prove that the certificates were genuine. The learned counsel further submitted that the respondents have not proved that the certificates obtained by the petitioner were fake documents and that the respondents cannot put the burden on the petitioner to prove the authenticity of the certificates after this length of time.

9.It is further submitted that the third respondent has passed an order without examining the genuineness of the certificates, which are obtained by the petitioner from the concerned Head Master of the School where he studied.

10.The respondents have filed their detailed counter narrating every incident and reasons for coming to the conclusion that the certificates produced by the petitioner at the time of joining service were fake. It is the case where the petitioner was found guilty of producing fake certificates at the time of getting appointment. The records collected from the School for the relevant period would indicate that the petitioner never studied in the School and hence, it was concluded that the certificates produced by the petitioner are fake. The reasoning and the findings given by the Enquiry Officer is supported by materials.

11.Merely because, the certificates produced by the petitioner were pertaining to the year of 1958, it cannot be said that the authenticity of the certificates cannot be proved. When it is established that the School records maintained by the School in which the petitioner claimed to have studied earlier, reveal that the petitioner was not a student of the School this Court is of the view that the petitioner has fabricated records.

12.This Court is of the view that the petitioner has failed to substantiate his case that he did not commit any wrong in getting certificates. The petitioner has not made any attempt to justify his stand by producing any useful evidence.

13.This Court is unable to find any merits in this petition. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

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   Virudhunagar District,
   Virudhunagar.

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+1 CC to SPL GP (SR-93528[F] dated 22/10/2019)
+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-93554[F] dated 22/10/2019)

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