



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P (MD) No.5285 of 2019

and

W.M.P. (MD) Nos.4219 and 4220 of 2019

S.Murugeswari

... Petitioner

Vs.

1.The Superintending Engineer,
Palladam Electricity Distribution Circle,
Palladam,
Tiruppur District.

2.The Executive Engineer/Operation and Maintenance,
Tamil Nadu Generation and Distribution Corporation Limited,
Dharapuram,
Tiruppur District.

3.The Assistant Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Manakadavu,
Dharapuram Taluk,
Tiruppur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records to the impugned order passed by the first respondent in his proceedings in கு.ஆ.எண்.771-1/மே.பா.பொ/ப.மி.ப.வ/பல்/நிபி-1/உத-1/கோ.கணக்கீடு/2019 dated 01.03.2019 and quash the same and consequently direct the respondents to reinstate the petitioner in the post of Assessor (Grade II) within a time frame as fixed by this Court.

For Petitioners : Mr.B.Prahalad Ravi

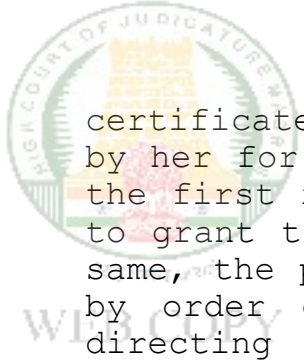
For Respondents : Mr.A.V.Ramanathan

ORDER

Seeking to quash the impugned order dated 01.03.2019 passed by the first respondent and to direct them to reinstate the petitioner in the post of Assessor (Grade II), the present writ petition has been filed.

2.The brief facts of the case are as follows:

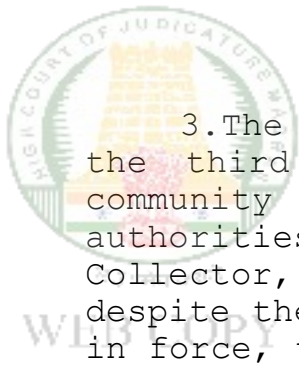
(i) The petitioner was appointed in the post of Assessor (Grade II) category in the office of the third respondent on 27.11.2013 under the Scheduled Tribe quota. On 02.04.2014, the 2nd and 3rd respondents asked the petitioner to produce her community



certificate within a period of 15 days. As the application submitted by her for issuance of community certificate, has been pending with the first respondent, the petitioner requested the third respondent to grant time, but the said request was rejected. Challenging the same, the petitioner filed W.P.(MD).No.6400 of 2014 and this Court, by order dated 16.04.2014, disposed of the said writ petition, directing the 2nd and 3rd respondents to permit the petitioner to join duty without insisting on the production of community certificate and further directing the petitioner to produce the community certificate within a period of four months, failing which the 2nd and 3rd respondents were at liberty to terminate the petitioner from service. Pursuant to the said order, the petitioner was permitted to join duty on 29.04.2014.

(ii) Despite several representations made by the petitioner, the 1st respondent has not issued community certificate. While so, on 07.08.2014, the third respondent issued a communication directing the petitioner to produce the community certificate on or before 30.09.2014, failing which, her service would be terminated. On receipt of the said communication, the petitioner filed a writ petition in W.P.(MD).No.14726 of 2014 seeking a direction to the 2nd and 3rd respondents not to insist on the production of the community certificate till the disposal of her application for issuance of community certificate by the 1st respondent and also directing the 1st respondent to dispose of her application for community certificate within a stipulated time. This Court, by order dated 05.09.2014, granted an interim direction directing the 2nd and 3rd respondents to maintain status quo as on date. This Court also directed the 1st respondent to dispose of the application of the petitioner seeking community certificate. Pursuant to the same, the competent revenue authority passed an order rejecting the petitioner's application for issuance of community certificate.

(iii) Aggrieved over the above said order, the petitioner filed W.P.(MD)No.16467 of 2014 and obtained an interim order of injunction restraining the respondents from terminating the petitioner. Thereafter, by order dated 19.12.2016, this Court disposed of the said writ petition, directing the petitioner to file appeals before the District Collector, Dindigul as well as before the State Level Scrutiny Committee and till the disposal of the said appeals, the respondents 2 and 3 therein were directed to maintain status quo as on date. Pursuant to the same, the petitioner filed an appeal before the District Collector, Dindigul and the same is pending, without any progress. At this juncture, the first respondent sent a communication, dated 12.02.2019 to the petitioner directing her to produce the community certificate within a period of 7 days. Though the petitioner made a representation, dated 27.02.2019 requesting the respondents to extend the time for production of community certificate till the disposal of the appeal, the first respondent has passed the impugned order, dated 01.03.2019 thereby terminating the petitioner from service. Therefore, the petitioner is before this Court with the above writ petition.



3.The learned counsel for the petitioner submitted that this is the third round of litigation and the matter relating to the community status of the petitioner, has been placed before various authorities and now, the appeal is pending before the District Collector, Dindigul. The learned counsel further submitted that despite the order of status quo passed by this Court and the same is in force, the first respondent passed the impugned order terminating the petitioner from service, for want of community certificate, which is in violation of the order of this Court and hence, the same is liable to be set aside.

4.On the other hand, the learned counsel for the respondents submitted that since the petitioner failed to establish her community status by producing the relevant certificate, the first respondent passed the order impugned herein and hence, the same warrants no interference by this Court.

5.Heard both sides and perused the records.

6.The challenge made in this writ petition is to the order dated 01.03.2019 passed by the first respondent, terminating the petitioner from service for want of community certificate from the competent authority. In the earlier round of litigation, the petitioner approached this Court by filing WP.No.16467 of 2014 seeking to quash the order dated 22.09.2014 passed by the first respondent rejecting the application submitted by her for issuance of community certificate. By order dated 19.12.2016, the said writ petition was disposed of in the following terms:

"5.Since the petitioner is having an alternative remedy, this Court is not inclined to entertain the writ petition. However, considering the facts and circumstances of the case, the petitioner is directed to file an appeal as against the impugned order before the concerned District Collector within a period of one week from the date of receipt of the order. On receipt of such appeal, the concerned District Collector is directed to dispose of the same within a period of four weeks from the date of receipt of the appeal. If the petitioner approached the State Level Scrutiny Committee aggrieved by the order passed in the appeal, the State Level Scrutiny Committee shall dispose of the same within a period of eight weeks thereafter. Till such time, the 2nd and 3rd respondents are directed to maintain status quo as on date.

6.With the above directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed."

<https://hcservices.ecourts.gov.in/hcservices/>

Pursuant to the aforesaid direction, the petitioner filed an appeal before the District Collector, Dindigul and the same is pending. The



said fact has been conceded by the learned counsel for the respondents. It is also an admitted fact that the status quo granted by this Court in the aforesaid writ petition is still in force.

7. When such being the actual position, the first respondent, instead of maintaining status quo, terminated the petitioner from service, by the order impugned herein, which, in my considered view, is in violation of the order of the Division Bench of this Court. On this ground alone, the impugned order is liable to be set aside.

8. Accordingly, the order dated 01.03.2019 passed by the first respondent is set aside. As a sequel, the matter is remitted back to the first respondent, for passing orders afresh, after the outcome of the appeal pending before the District Collector, Dindigul with regard to the community status of the petitioner. In the mean while, in compliance with the order of the Division Bench of this Court dated 19.12.2016 in W.P.(MD) No.16467 of 2014, the District Collector, Dindigul as well as the State Level Scrutiny Committee shall pass orders on the petitioner's appeal seeking community certificate.

9. The writ petition is disposed of, on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Superintending Engineer,
Palladam Electricity Distribution Circle,
Palladam, Tiruppur District.
2. The Executive Engineer/Operation and Maintenance,
Tamil Nadu Generation and Distribution Corporation Limited,
Dharapuram, Tiruppur District.
3. The Assistant Engineer,
Tamil Nadu Generation and Distribution Corporation Limited,
Manakadavu,
Dharapuram Taluk,
Tiruppur District.

+1 CC to Mr.B.PRAHALAD RAVI, Advocate SR-58040.

W.P(MD)No.5285 of 2019

28.03.2019