

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.35066 of 2007

1.N.Dharman (deceased)

2.Mohana

3.D.Sundaresan

4.D.Vinodhini

(P2 to P4 impleaded as
per order of this Court
dated 24.02.2015 in
M.P.No.1 of 2014)

... Petitioners

Vs.

1.The Commissioner,
Nallampatti Panchayat Union,
Dharmapuri.

2.The District Collector,
Dharmapuri District,
Dharmapuri.

3.The Commissioner,
Harur Panchayat Union,
Dharmapuri
(R3 impleaded vide order
dated 12.10.2020 made in
WMP.No.1 of 2015)

... Respondents

सत्यमेव जयते

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the second respondent relating to Na.Ka.No.16889/2007/K3 dated 23.10.2007 on his file, quash the same and direct the respondents to re-instate the petitioner as Junior Assistant, Panchayat Unions and give his salary and other benefits from 03.01.2002, the date of his suspension.

For Petitioners : Mr.T.Sezhian

For Respondents : Mr.K.Magesh
Special Government Pleader

ORDER

The petitioners have filed this writ petition challenging the order of the second respondent vide proceedings in Na.Ka.No.16889/2007/K3 dated 23.10.2007.

2. Originally the first petitioner was appointed as an Office Assistant in the Harur Panchayat Union in the year 1979 and subsequently, he was promoted as Junior Assistant in the year 1991. On 03.01.2002, he was placed under suspension by the second respondent for the allegation that he produced bogus Secondary School Leaving Certificate to secure promotion for the post of Junior Assistant. Thereafter, he was reverted back to the post of Office Assistant and the matter was referred to the Judicial Magistrate Court, Harur in C.C.No.502 of 2003. After trial, the learned Judicial Magistrate, Harur acquitted the first petitioner. Thereafter, the first petitioner made several representations to the second respondent and since there was no response, he approached this Court to direct the second respondent to reinstate him as Junior Assistant and also give him salary and other benefits from 03.01.2002, the date of his suspension.

3. This Court by order dated 05.07.2007, directed the second respondent to consider the representation on merits and dispose of the same within a period of six weeks from the date of receipt of a copy of that order. Thereafter, on 23.10.2007, the second respondent has dismissed the claim of the first petitioner holding that he had not submitted any evidence to show that the mark sheet was a genuine document. Challenging the same, this writ petition has been filed by the first petitioner. During pendency of this writ petition, the first petitioner died and his legal heirs were impleaded as petitioners 2 to 4.

4. Learned counsel for the petitioner would submit that since the allegation levelled against the first petitioner has not been proved, the learned Judicial Magistrate, acquitted the first petitioner in criminal case C.C.No.502 of 2003 and hence, the mark sheet produced by the first petitioner is a genuine document and therefore, he is eligible for the post of Junior Assistant. He also submitted that during pendency of this writ petition, the first petitioner died and hence, his legal heirs are entitled to get monetary benefits. He would also contend that since the respondents have not produced the original record from the competent authority, the order passed by the second respondent is illegal and liable to be set aside.

5. Learned Special Government Pleader would submit that in order to verify the mark sheet produced by the first petitioner, it was sent to the competent authority and the competent authority verified the mark sheet twice and stated that actually, the petitioner secured only 21 marks and not 61

marks. Based on the said report issued by the competent authority, the respondents have reverted the first petitioner back to his original post viz., Office Assistant.

6. On a careful perusal of the records, it is seen that the first petitioner for getting promotion, he produced mark sheet as if he passed tenth standard and therefore, the respondents have given promotion as Junior Assistant. Subsequently, on receipt of complaint, the mark sheet produced by the first petitioner was sent to the competent authority for verification and also criminal case was also initiated. After trial, the learned Judicial Magistrate acquitted the first petitioner. However, the said Judgment delivered in favour of the first petitioner only on the basis of benefits of doubt goes to the accused. However, the competent authority in his report has stated that the petitioner has secured only 21 marks and not 61 marks as produced by him in the mark sheet.

7. The scope of criminal case is entirely different and based on the investigation and charges and the materials placed before the learned Magistrate, the petitioner was acquitted on benefits of doubt.

8. This Court after giving careful consideration to the materials placed on record and also to the submissions made by the learned counsel on either side, is of the considered view that the second respondent has rightly reverted the first petitioner back to Office Assistant, based on the report given by the Secretary, Director of School Education. This Court does not find any merit in this writ petition. Accordingly, this writ petition is dismissed. No costs.

9. It is made clear that since the first petitioner died during the pendency of this writ petition and he was an Office Assistant at the time of his death, the monetary benefits shall be extended to his family members for the service rendered as Office Assistant.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner,
Nallampatti Panchayat Union,
Dharmapuri.

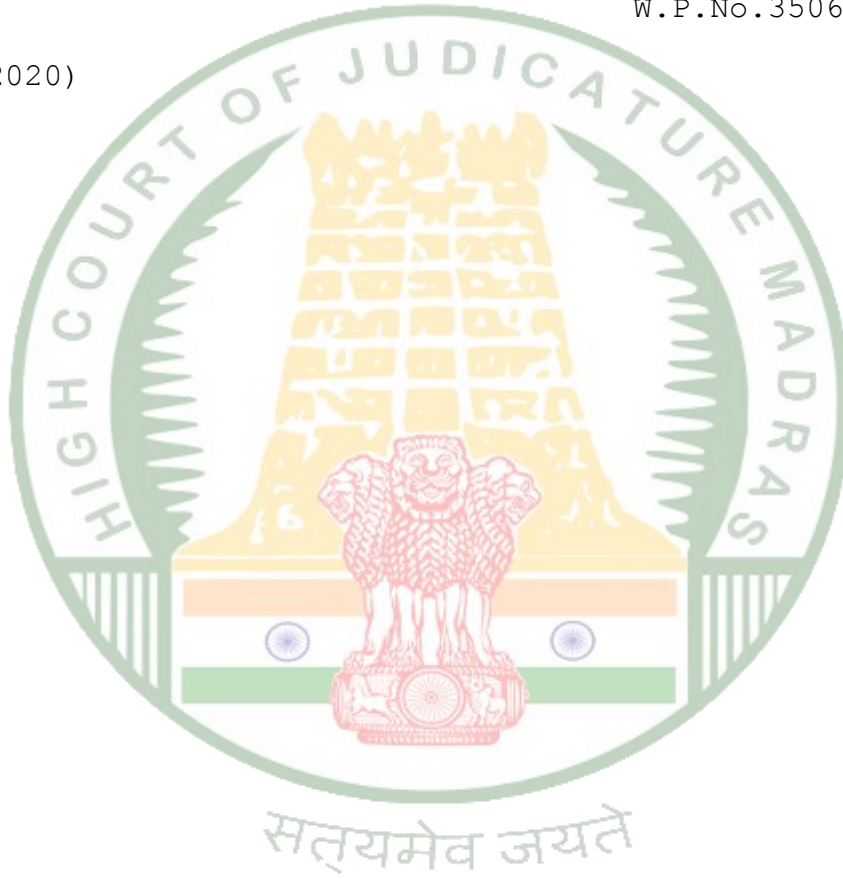
2.The District Collector,
Dharmapuri District,
Dharmapuri.

3.The Commissioner,
Harur Panchayat Union,
Dharmapuri

+1 cc to Mrs.R. Meenal, Advocate SR No.38355
+1 cc to Mr.K. Magesh, Special Government Pleader
Advocate, SR No.38311.

W.P.No.35066 of 2007

NR(CO)
NS(30/12/2020)



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