

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2020

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.34599 of 2004

Mr.S.Damodharan

..Petitioner

-vs-

The Commissioner
Tambaram Municipality
Tambaram
Kancheepuram District

..Respondent

Petition under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relevant to the order in Na.Ka.No.H-1/9580/2004 dated 10.11.2004 passed by the respondent and quash the same as illegal, improper, unreasonable, arbitrary, against the rule of law and natural justice and thereby direct the respondent to permit the petitioner to continue the service as L & D JCP vehicle driver in the respondent Municipality and pay back all the service benefits for the service of L & D driver from 10.11.2004.

For Petitioner : Mr.B.Gopalakrishnan for
Mr.E.M.K.Yaswant Rao

For Respondent : Mr.P.Srinivas
Standing Counsel

ORDER

Mr.S.Damodharan, while serving as JCP Driver in the respondent-Tambaram Municipality, was shifted/demoted as Lorry Driver, by the impugned order, as a result, the petitioner was deprived of the benefit of difference in the pay scale at Rs.475/-, inasmuch as the pay scale for JCP Driver is Rs.1400/-, whereas the pay scale for Lorry Driver is Rs.925/-. As the demotion, without any notice or holding any enquiry, has hugely affected his monthly salary, he came to this Court and this Court, considering that the demotion effected against the petitioner was without any notice or following any rules, granted an order of stay on 29.11.2004. Based on the order of stay, he was to be given the salary. But the respondent has not given salary for the post of JCP Driver.

2. It is at this stage, learned standing counsel appearing for the respondent submitted that in view of the order of stay granted by this Court on 29.11.2004, the petitioner was allowed to continue only as JCP Driver. However, after sometime, on the basis of a criminal complaint received from his neighbour, he was arrested and remanded in judicial custody, based on which the respondent has placed the petitioner under suspension. Now the order of suspension still continues.

3. In reply, the learned counsel appearing for the petitioner submitted that once the order of stay was granted against the operation of the demotion order demoting him from the post of JCP Driver, a direction be issued to the respondent to consider the payment of salary to the petitioner in the post of JCP Driver.

4. There is no counter affidavit filed by the respondent. Since this Court, by order dated 29.11.2004, had stayed the operation of the demotion order passed against the petitioner, on the ground that no notice was given and the same was passed behind the back of the petitioner, the respondent cannot give effect to the impugned order. Hence, the impugned order is set aside. Needless to mention that the petitioner is entitled to get the salary from the date of demotion till the date of suspension. With this observation, the writ petition stands allowed. Consequently, W.P.M.P.No.41751 of 2004 is closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner
Tambaram Municipality
Tambaram
Kancheepuram District

+1cc to Mr.P.Srinivas, Advocate, S.R.No.20787

W.P.No.34599 of 2004

KS (CO)
RN(09/06/2020)