

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Writ Petition No.28784 of 2005

P.Ramasamy

..Petitioner

Vs

1. The State of Tamil Nadu
rep. by the Secretary to Government
Labour and Employment Department
Chennai-9

2. The Commissioner of Employment and Training
Guindy, Chennai-32

..Respondents

Prayer : Writ Petition filed praying to issue a writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order passed by the 1st respondent in G.O.(3D) No.1 Labour and Employment (P2) Department, dated 11.02.2005 and the impugned review order passed in G.O.(D).No.835 Labour and Employment Department dated 30.11.2006 and quash the orders and consequently direct the respondents to reinstate the petitioner in service and allow him to retire from service with effect from 30.06.2002 and settle the entire terminal and pensionary benefits with interest.
(Prayer amended as per order date 08/02/2008 in W.P.MP.No.175/2008 in WP.No.28784/2005)

For Petitioner : Mr.Prem Narayan for Mr.K.Govindaraj

For Respondents : Mr.K.Magesh, Special Govt Pleader

ORDER

The petitioner was working as District Employment Officer. He was removed from service vide order dated 11.02.2005. Challenging the said order, he has filed the present writ petition.

2. The learned counsel for the petitioner would submit that while the petitioner was working as District Employment Officer, Kanchipuram, based on the allegations levelled against him, the following two charges were framed.

(i) During the period between 1986 and 1989, he had abused his position, cheated 10 individuals by promising to get employment for them as Clerks or Mazdoors in the Neyveli Lignite Corporation and dishonestly induced them to part with huge amounts and thereafter handed over to them the bogus appointment orders and failed to maintain integrity.

(ii) The petitioner abused his position, cheated one Sreenivasan of a sum of Rs.25,000/- by promising to get him a Government job and cheated one Umapathy of a sum of Rs.20,000/- by promising him a job in Indian Overseas Bank and thereby failed to maintain integrity.

3. The petitioner/delinquent officer was issued with the above charge memo seeking explanation. Reasonable opportunity was given to him and an inquiry officer was appointed and inquiries were conducted. As the delinquent officer did not appear for the inquiries, the inquiry was conducted as exparte. The inquiry officer submitted his final report holding that both the charges framed against the delinquent officer were proved except to state that the delinquent officer has received money from Sreenivasan is not proved.

4. The individual submitted his further representation on the inquiry report. In the mean time, the Government issued orders placing the delinquent officer under suspension and also not permitting him to retire from service on superannuation and retaining him in service until final orders were passed in the matter.

5. The Government independently with all connected records including the views of the Tamil Nadu Public Service Commission decided to accept the views of the Commission and ordered that Petitioner shall be removed from service by order dated 11.02.2005. The petitioner thereafter filed Review and also filed the present writ petition seeking to quash the impugned order dated 11.02.2005.

6. Subsequently, on 30.11.2006 the first respondent, Labour and Employment Department, passed orders in Review Petition by G.O.(D).No.835 dated 30.11.2006 confirming the order of the 2nd respondent. Therefore, the petitioner filed Miscellaneous Petition in WPMP.No.175 of 2008 seeking amendment of the prayer in the Writ Petition and the same was also allowed. So, challenging the order of removal from service, the writ petitioner approached this court.

7. The learned counsel for the petitioner would submit that during the enquiry, he was suffering from piles problem and therefore, he could not participate in the enquiry proceedings. The Enquiry officer has not given opportunity to contest the

matter and only exparte order was passed against him. He would further submit that witnesses have given contradictory statement during the enquiry and despite objections to the charges, the enquiry officer has not considered the statement of the witnesses and concluded that charges are proved. The Disciplinary Authority confirmed the findings of the Enquiry Officer and passed order of removal from service.

8. The Government also confirmed the order passed by the Disciplinary Authority. The petitioner submits that both the enquiry officer as well as appellate authority failed to consider the case of the petitioner and passed the impugned order which warrants interference.

9. The learned Special Government Pleader would submit that the petitioner was working as District Employment Officer in Kanchipuram Employment Exchange. He issued bogus employment order to the witnesses and also enquiry was duly conducted and found that charges levelled against the petitioner was proved. Subsequently, by the impugned order dated 11.02.2005, he was removed from service and there is no merit in the present writ petition.

10. Heard and perused the records.

11. Admittedly, the petitioner was working as District Employment Officer and based the allegations, a charge memo dated 21.07.1996 was issued under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules. Subsequently after explanation, Enquiry Officer was appointed and after enquiry, Enquiry Officer found that the charges levelled against the petitioners are proved and submitted the enquiry report dated 19.07.2000. Subsequently, the petitioner filed appeal before the Government raising the point that the charge against the petitioner as regards he received the money from Sreenivasan is not proved.

12. However, the enquiry officer submitted a final report dated 19.07.2000 holding all the charges framed are proved. The Government found that the charges framed against the petitioner were proved and the petitioner exhibited unbecoming conduct which is to be viewed seriously and thus passed impugned order of removal from service dated 11.02.2005, thereby, upheld the finding of the Enquiry Officer.

13. Though the petitioner subsequently filed review before the Government, the Government considered review and dismissed the same by G.O.(3D).No..1 dated 30.11.2006. The petitioner was also removed from service by way of punishment.

14. A perusal of the report of the enquiry officer shows that the charges levelled against the petitioner were proved. Though the petitioner was given opportunity, he has not given proper explanation. A reading of the entire papers would reveal that the petitioner has issued bogus employment orders. Considering the serious nature of the allegations levelled against the petitioner and in the light of the proven charges, this court does not find any merit in the writ petition. Therefore, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

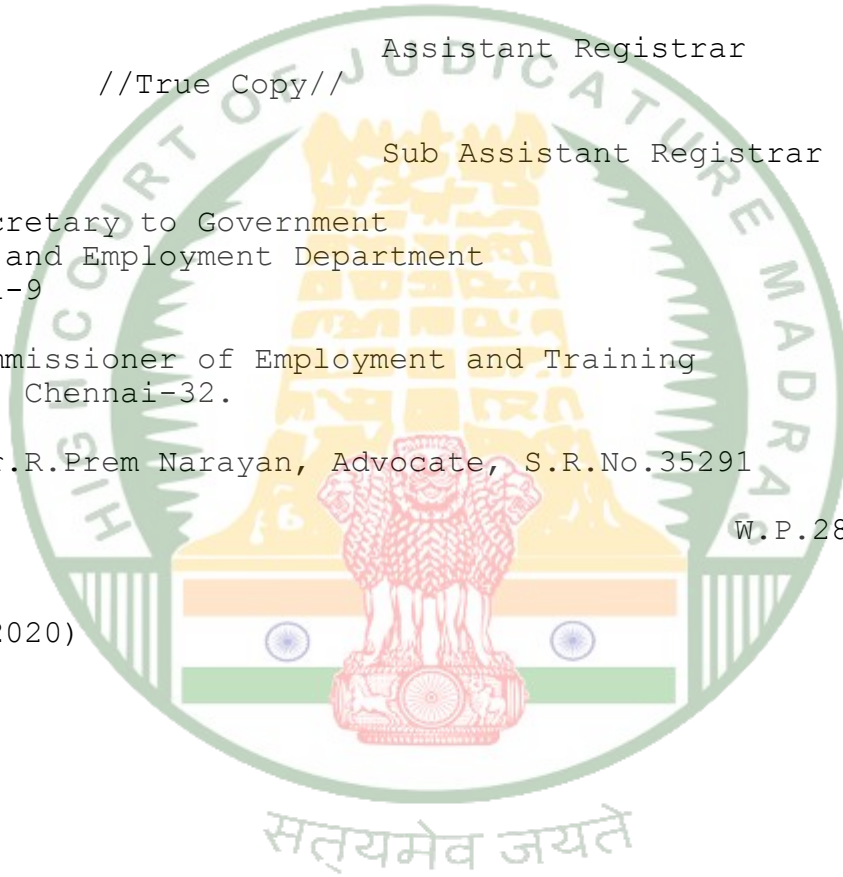
To

1. The Secretary to Government
Labour and Employment Department
Chennai-9
2. The Commissioner of Employment and Training
Guindy, Chennai-32.

+1cc to Mr.R.Prem Narayan, Advocate, S.R.No.35291

W.P.28784 of 2005

SSI (CO)
RV(09/12/2020)



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