

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.30792 of 2005

S.Ramanathan

...Petitioner

Vs

The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking issuance of a writ of certiorari to call for the records pertaining to order dated 27.08.2005 bearing ROC.No.5591/2002/PA3-1 passed by the respondent herein and quash the same.

For Petitioner : Ms.S.Rathi
for Mr.V.Suthakar

For Respondent : Mr.K.Magesh
Special Government Pleader

O R D E R

The prayer sought for in this writ petition is for a issuance of writ of certiorari to quash the order dated 27.08.2005 bearing ROC.No.5591/2002/PA3-1 passed by the respondent.

2. Heard the learned counsel for the petitioner, the learned Special Government Pleader for the respondent and perused the materials available on record.

3.It is the case of the petitioner that he was originally appointed as part time Panchayat Clerk at Polur Panchayat Union. Subsequently, he was promoted as Junior Assistant/Rural Welfare Officer, Grade-II, Thuringapuram Panchayat Union and thereafter, he was transferred to Polur Block, Tiruvannamalai District. On 05.06.2002, the District Collector, Tiruvannamalai the respondent herein, issued a charge memo under Rule 17(b) of the Tamil Nadu Civil Service (Discipline & Appeal) Rules alleging that the petitioner secured only 29 marks in

Mathematics, but, he produced bogus S.S.L.C mark sheet and secured promotion as Junior Assistant.

4. It is further stated that explanation was called for from the petitioner. The petitioner also given his explanation and not being satisfied with the same, an enquiry officer was appointed. After due enquiry, the enquiry officer given a finding that the charges levelled against the petitioner were proved. Based on the enquiry report and after getting further explanation from the petitioner, the Disciplinary Authority awarded the punishment of removal from service. Challenging the same, the present writ petition.

5. The learned counsel for the petitioner would submit that the report of the Director of School Examinations regarding S.S.L.C mark sheet was not furnished to the petitioner and he did not aware of the particulars contained in the letter. The Director of School Examination, by his letter has stated that the petitioner has secured only 29 marks in Mathematics and not 68 as mentioned in the certificate. The aforesaid statement of the Director of School Examinations cannot be construed that the petitioner has produced bogus S.S.L.C mark sheet and it might be a genuine error that has been crept in the mark sheet, for which, the petitioner cannot be held responsible. He would further submit that the petitioner wrote S.S.L.C examination in April, 1991, whereas he was promoted as Junior Assistant only on 21.04.1997. Hence, it is unjust and improper to state that the petitioner by producing bogus certificate secured promotion. He would further submit that challenging the said charge memo, the petitioner filed an application in O.A.No.3631 of 2002 before the Tamil Nadu Administrative Tribunal and the Tribunal also given liberty to the respondent to revert the petitioner to the post of part time Panchayat Clerk. However, the same was not considered by the respondent. He would further submit that the petitioner is fully qualified for holding the post of part time Panchayat Clerk in as much as for holding the post of Junior Assistant and the minimum educational qualification for both the posts is S.S.L.C. Hence, the respondent ought to have reverted the petitioner to the post of part time Panchayat Clerk, instead of removing his from service.

6. The learned Special Government Pleader for the respondent would submit that initially the petitioner was appointed as part time Panchayat Clerk. At the time of initial appointment, except in mathematics, he secured pass marks in all other subjects in S.S.L.C Examination. Thereafter, in the year 1991, the petitioner wrote S.S.L.C examination for mathematics and

produced a certificate as that he secured 68 marks in mathematics. When the certificate was sent for verification, the Director of School Examinations by his letter in Na.Ka.No.26514/V2-2/2001, dated 22.02.2002 has stated that the mark sheet of the petitioner is bogus and the petitioner had only secured 29 marks in mathematics. Based on the said letter, the respondent issued a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and after due enquiry he awarded punishment of removal from service. Therefore, there is no merit in the writ petition and the same may be liable to be dismissed.

7. At this juncture, the learned counsel for the petitioner submitted that the petitioner produced the mark sheet to the respondent which he had received from the Director of School Examinations. Hence, if any mistake is crept in the mark sheet, the petitioner cannot be held responsible. He further submitted that the Department has not proved that the mark sheet produced by the petitioner is bogus and the same was created by the petitioner and he has not passed in mathematics. The petitioner was originally appointed as part time Panchayat Clerk and he may be reverted back to the original post instead of removal from service, which is disproportionate to the charges.

8. On a careful perusal of the entire records, it would reveal that admittedly, the petitioner was appointed as a part time Panchayat Clerk at Polur Panchayat Union from 01.04.1980. Subsequently, he produced a certificate in the year 1991, as if he passed 10th Standard by obtaining 68 marks in mathematics. When the said certificate was sent for verification, the Director of School Examinations sent a report to the effect that the certificate produced by the petitioner is bogus and he secured only 29 marks and not 68 marks. When explanation was called for from the petitioner, he has not clearly stated that how he got that mark sheet. Therefore, in view of the report received from the Director of School Examinations and the report of the enquiry officer, it is proved that the mark sheet produced by the petitioner is bogus. It is clear that the petitioner by producing bogus certificate got promotion in the permanent post and hence, he is not entitled to continue as a Public servant. Therefore, the disciplinary authority, after considering the entire facts, awarded the punishment of removal from service.

9. Considering the above facts and circumstances, it is clear that the petitioner produced the bogus certificate and obtained promotion. Hence, the respondent has rightly awarded

the punishment of removal from service. Therefore, there is no merit in this writ petition and the same is liable to be dismissed. Accordingly, the writ petition is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ms

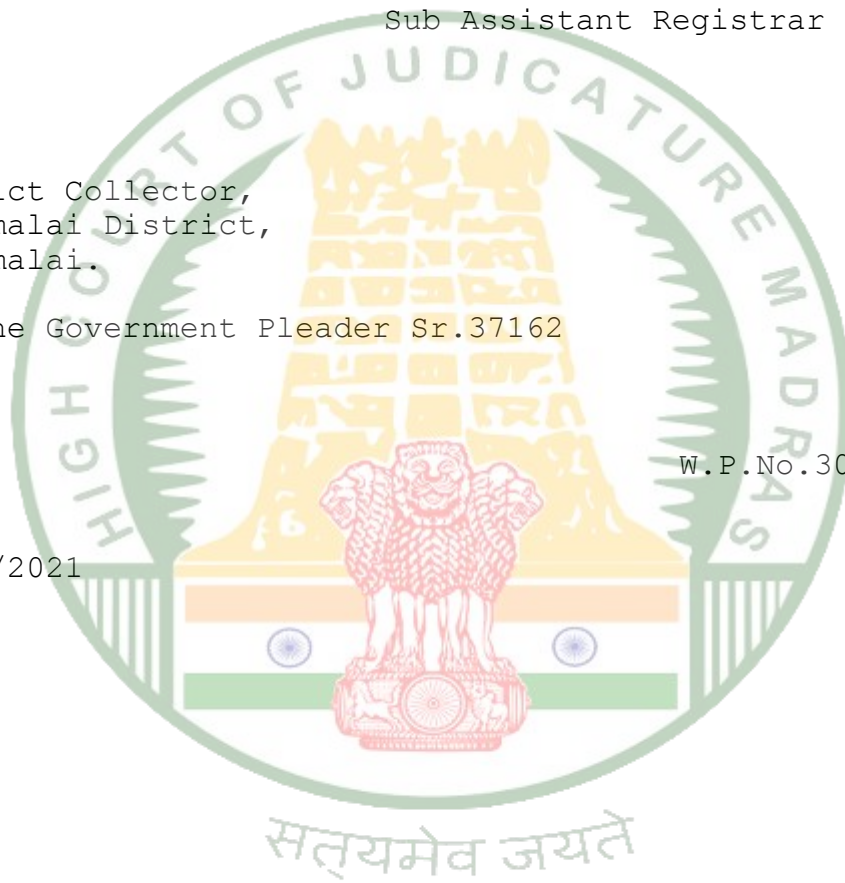
To

The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

+1cc to the Government Pleader Sr.37162

W.P.No.30792 of 2005

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