

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17/2/2020

C O R A M

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.22034 of 2019

S. Prabhakaran ... Petitioner

Vs

1. The Registrar General
Madras High Court
Chennai 600 104.
2. The Secretary
Tamil Nadu Public Service Commission
Chennai 600 003.
3. The District Judge-cum-
Chief Judicial Magistrate
Uthagamandalam
The Nilgiris District. ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the order of the second respondent in No.7260/PSD-D2/2009 dated 20/2/2014 and the order of the third respondent in A.No.103/2018 dated 22/3/2019 and quash the said orders and direct the respondents to restore the petitioner's selection to the post of Junior Assistant and permit him to join duty as Junior Assistant under the Tamil Nadu Judicial Ministerial Service and grant all attendant benefits.

For petitioner
For respondents

... Mr.P.Rajendran
... Mr.P.Kannan Kumar
for R.R.1 and 3.

Ms.CNG.Niraimathi
for R.2.

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O R D E R

SUBRAMONIUM PRASAD, J

This writ petition is one for a writ of certiorari, for quashing the order, dated 20/2/2014 passed by the Secretary, Tamil Nadu Public Service Commission, Chennai and an order, dated 22/3/2019 passed by the District Judge-cum-Chief Judicial Magistrate, Uthagamandalam, The Nilgiris District and restore the selection of the petitioner as Junior Assistant and permit him to join duty as Junior Assistant under Tamil Nadu Judicial Ministerial Service.

2. The petitioner was working as a Junior Assistant in Taluk Supply Office, Gudalur in the Government Revenue Department. he had also applied and was selected as a Junior Assistant in the Tamil Nadu Judicial Ministerial Service. Unfortunately, the petitioner was involved in a criminal case bearing case Crime No.581 of 2009 on the allegation that he was involve din preparing fake ration cards and was kept in judicial custody between 25/12/2009 and 10/1/2010. During the said period of detention, the appointment letter of the petitioner as Junior Assistant in Judicial Ministerial Service was issued by the District Judge on 7/1/2010. On being released, the Revenue Department initiated disciplinary action by issuing a show cause to the petitioner on 15/2/2010. The petitioner requested the Revenue Department to relieve him so as to enable him to join his new assignment that was not being accepted, and therefore, he filed W.P.No.10320 of 2010 praying that he be relieved from the Revenue Department to enable him to join at the District Judiciary. The said petition was dismissed on 13/7/2010 observing that the prayer could not be granted as the petitioner was still facing disciplinary proceedings in the Revenue Department. The petitioner on the conclusion of the disciplinary proceedings was dismissed from service on 12/9/2013. The TNPSC cancelled the selection of the petitioner as Junior Assistant in Judicial Ministerial Service, vide order datd 20/2/2014.

3. The petitioner also filed a petition under Section 482 of Cr.P.C., for quashing the criminal case pending against him. By an order, dated 16/11/2016, this Court, disposed of the petition filed in CrI.O.P.No.21710 of 2011, under Section 482 of the Code of Criminal Procedure, directing the Police to complete investigation. It was also observed that if the officials are not co-operating in the investigation, the respondent Police, may file a closure report before the

jurisdictional Magistrate in view of the fact that investigation is pending for more than ten years.

4. Order of the District Collector, Udhagamandalam, terminating the petitioner, vide order, dated 12/9/2013 was challenged by the petitioner by filing W.P.No.20477 of 2014. The petitioner withdrew W.P.No.20477 of 2014 on 8/6/2018. The petitioner was asked to give a certificate, stating that he was not involved in a criminal offence and was asked to join duty. Since the petitioner did not join duty, his name was removed from the approved list by the District Judge-cum-Chief Judicial Magistrate, Udhagamandalam. The order passed by the TNPSC and the order passed by the District Judge, removing the petitioner from the approved list, has been challenged in the instant writ petition.

5. Counter affidavits have been filed by the District Judge-cum-Judicial Magistrate, Udhagamandalam, The Nilgiris, third respondent and also the Secretary, Tamil Nadu Public Service Commission, second respondent. The Tamil Nadu Public Service Commission, in its counter has stated that the petitioner had not given the joining report, within the time stipulated, on the ground that he had not been relieved by the District Collector, Udhagamandalam, due to the pendency of the departmental action and since the petitioner did not join, his name was removed from the approved list. The TNPSC and the District Judge, The Nilgiris in their counter state that the petitioner had been arrested for involvement in an offence relating to manipulating of records for preparing fake family cards and also that he had not joined the services within the stipulated time. He had also withdrawn the petition filed by him challenging the termination order dated 12/9/2013.

6. Heard Mr.P.Rajendran, learned counsel for the petitioner, Mr.P.Kannan Kumar for the respondents 1 and 2 and Ms.CNG.Niraimathi, for the second respondent.

7. Learned counsel for the appellant would contend that the criminal case had ended in an acquittal and therefore, the order removing the petitioner from the list is unsustainable in law. He would state that though he had challenged the order, dated 12/9/2013 in W.P.No.20477 of 2014, the same had been withdrawn because of the fact that he had been selected in the Court of the District Judge-cum-Chief Judicial Magistrate, Udhagamandalam. He also states that after being exonerated in the criminal case, there was no

embargo on the petitioner being appointed and he could not join duty only because the District Collector did not give any relieving orders, pending disciplinary proceedings.

8. The attempt made by the petitioner to join services in the Judicial Department after getting relieved from the revenue department failed with the dismissal of W.P.No.10325 of 2010 on 13/7/2010. Thus, the entry into the Ministerial service of the Judicial Department became clearly dependant on the outcome of the proceedings in the revenue Department.

9. By order, dated 12/6/2013, the Collector, Nilgiris, dismissed the petitioner from service. Challenge to the said dismissal has been withdrawn. The petitioner did not join duty in time and since he had not joined the duty on time, there was no option left for the District Judge to remove him from the approved list. The fact that the petitioner has been dismissed on grounds that he was involved in creation of bogus family cards, is a very important factor to be taken into account before permitting such a person to be appointed in the Judicial Ministerial Service. Public confidence on the judiciary cannot be permitted to be shaken by permitting persons with such antecedents to be appointed and work in Courts. The criminal case against the petitioner has been closed only because of the order of this Court, dated 16/11/2016 and because of non-cooperation from the District Supply Officer. In view of the fact that the petitioner did not join duty in time and the writ petitioner having withdrawn W.P.No.20477 of 2014, resulting in leaving the order of dismissal dated 12/9/2013, intact, there was no other option but to remove the petitioner from the list.

10. In view of the above, writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Registrar General
Madras High Court
Chennai 600 104.
2. The Secretary
Tamil Nadu Public Service Commission
Chennai 600 003.
3. The District Judge-cum-
Chief Judicial Magistrate
Uthagamandalam
The Nilgiris District.

+1cc to Mr.P.Rajendran , Advocate SR.No. 13156
W.P.No.22034 of 2019
A.SK(04/03/2020)



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