



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.15347 of 2014

and

M.P(MD) .Nos.1 and 2 of 2014

WEB COPY

K.Gunasekaran

... Petitioner

vs.

The Regional Manager
Tamil Nadu Civil Supplies Corporation
Dindigul Region, Dindigul

...Respondent

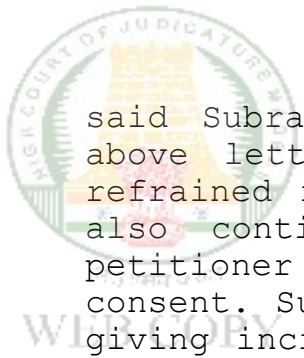
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari, to call for the records pertaining to the order of the respondent passed in his proceedings in Na.Ka.No.E2/773/2013 dated 02.05.2014 and quash the same as illegal.

For Petitioner	:	Mr.T.Lenin Kumar
For Respondent	:	Mr.D.Mayarajan

O R D E R

The above Writ petition has been filed to call for the records pertaining to the order of the respondent passed in his proceedings in Na.Ka.No.E2/773/2013 dated 02.05.2014 and quash the same as illegal.

2.The case of the petitioner is that on 02.11.1985, he was appointed as Helper on temporary basis. Thereafter, on 04.02.2010, the General Manager (Administration) Tamil Nadu Civil Supplies Corporation, Chennai by his proceedings in Proc.No.AE2/52429/2009 prepared a provisional seniority list, in which, the petitioner's name was placed in third position. Following the above proceedings, the respondent appointed the petitioner as Bill Clerk in Amutham Fair Price Shop No.2, Palani by an order dated 05.03.2010. On 25.04.2011, the respondent gave increment to the petitioner. The learned counsel for the petitioner would submit that on 18.05.2012, the respondent by his proceedings in R.C.No.E2/5313/2011 regularized the petitioner's service with effect from 04.03.2010. In this circumstance, the respondent by his proceedings, dated 18.02.2013, prepared a provisional seniority list to the post of Junior Assistant, in which, the petitioner's name was placed in 22nd position. Thus, on 07.03.2013, the petitioner was promoted as Junior Assistant. On 07.05.2013, the petitioner gave a letter to one G.Subramani, who was the Regional Secretary of Anna DMK Trade Union stating that due to his personal problem, he wanted to relinquish his promotion and gave a letter, dated 07.05.2013 to the said G.Subramani. Since, the petitioner's personal problem got solved, on the next day itself i.e 08.05.2013, the petitioner approached the



said Subramani and intimated him to refrain from submitting the above letter to the respondent. Accordingly, the said Subramani refrained from submitting the above said letter and the petitioner also continued to work there. Thereafter, on 16.12.2013, the petitioner was transferred to TNCSC Godown, Palani on his own consent. Subsequently, the respondent once again passed an order by giving increment to the petitioner on 10.01.2014. While so, in the month of April 2014, the petitioner relieved himself from Anna DMK Trade Union and joined in INTUC Trade Union. Since the petitioner relieved from Anna DMK Trade Union, the said Subramani aggravated over the same, manipulated the relinquishment letter as if the petitioner is not willing to continue in the post of Junior Assistant and hence, he may be reverted to the post of Bill Clerk and submitted the same before the respondent. Based on the letter given by the said Subramani, the respondent passed the reversion order, reverting the petitioner from the post of Junior Assistant to Bill Clerk by an order dated 02.05.2014. Aggrieved over the same, the petitioner is before this Court.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4. Today, when the matter was taken up for hearing, the learned counsel for the respondent has produced the letter in question as directed by this Court in the earlier hearing before this Court where it could be seen, there are some manipulation in the hand written letter. Based on such a manipulated letter given by the Regional Secretary of Anna DMK Trade Union to the respondent, the respondent without even calling the petitioner or without even confirming from the petitioner as to the letter, has passed the reversion order from the post of Junior Assistant to Bill Clerk. The reversion order has been passed totally based on the letter given by the said Subramani, who was the then Regional Secretary of Anna DMK Trade Union and no enquiry has been conducted. Even if the letter was submitted by a third person, it is the duty of the respondent to conduct enquiry to ascertain the veracity of the letter, without doing do, the respondent had reverted the petitioner. The very letter which was produced before this Court shows that there was some manipulation on the letter which one can see with the naked eye and the respondent ought to have verified the veracity of the letter, but without doing so, straight away passed an order based on the manipulated letter submitted by the said Subramani. The counsel for the petitioner submitted that as per circular dated 27.05.2008 issued by the Managing Director, Tamil Nadu Civil Supplies Corporation, no officer shall pass order of promotion, suspension, termination and other orders at the verge of his retirement. The order was passed by the Regional Manager, Rajaram on 02.05.2014 at the verge of his retirement on 31.05.2014 which is against their own circular.



5. In view of the aforementioned reasons, this Court is inclined to interfere with the order passed by the respondent. Accordingly, the order passed by the respondent, dated 02.05.2014 is quashed and this Writ petition is allowed. The petitioner is entitled to all benefits. It is brought to the notice of this Court that during the pendency of this Writ petition, the petitioner retired from service on 31.12.2017. Therefore, the respondents are directed to allow the petitioner to retire from service as Junior Assistant and pay all monetary benefits and other retirement benefits as if he worked as Junior Assistant. Such an exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

msa

To

The Regional Manager
Tamil Nadu Civil Supplies Corporation
Dindigul Region, Dindigul

+1 CC to M/s.D.MAYARAJAN, Advocate (SR-7208[F] dated 19/02/2020)
+1 CC to M/s.T.LENINKUMAR, Advocate (SR-7154[F] dated 19/02/2020)

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SMA/11/03/2020/3P/4C