



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P. (MD) .No.4273 of 2014

and

M.P. (MD) No.1 of 2014

J.Jebamani @ Abdullah

... Petitioner

-Vs-

1.The District Collector cum
Inspector of Panchayat,
Virudhunagar, Virudhunagar District.

2.The Block Development Officer,
Rajapalayam Panchayat Union,
Virudhunagar District.

3.The President,
Muthusamipuram Panchayat,
Rajapalayam Panchayat Union,
Virudhunagar District.

4.P.Ramamoorthy
President,
Muthusamipuram Panchayat,
Rajapalayam Panchayat Union,
Virudhunagar District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings No. Nil dated 18.02.2014 and quash the same as illegal and consequentially to direct the respondents to reinstate the petitioner in service as Over Head Tank Operator in the 3rd respondent panchayat and pay arrears of salary and all attended monetary benefits within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkateshkumar
for M/s.Ajmal Associates

For R1 to R3 : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

For R4 : No Appearance



ORDER

The termination order dated 18.02.2014, is under challenge in the present writ petition.

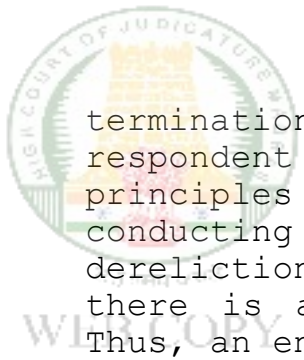
2.The writ petitioner was appointed as Over Head Tank Operator in Muthusamipuram Panchayat on 13.03.1990.

3.The learned counsel appearing on behalf of the writ petitioner made a submission that the petitioner was working sincerely to the satisfaction of the superior. The fourth respondent was elected as President to develop enmity with the writ petitioner and based on flimsy charges, the writ petitioner was terminated by the fourth respondent in the year 2012 and he filed W.P.(MD)No.5070 of 2013 and this Court passed an interim order. Pursuant to the interim order, the petitioner was allowed to continue in service. However, another set of charge memo was issued and once again, he was terminated from service in proceedings dated 18.02.2014. Thus, the present writ petition is filed challenging the termination order.

4.The learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 opposed the contention by stating that the petitioner was irregular in performing his duties and responsibilities and not functioned to the satisfaction of the superiors of the Panchayat. Therefore, the charge memo was issued and he was terminated from service. Thus, there is no infirmity and the writ petition has to be dismissed.

5.The earlier charge memo was issued on 03.09.2012. The petitioner was dismissed from service on earlier occasion on 04.10.2012. Pursuant to the interim order, the petitioner was allowed to continue in service. Again the charge memo was issued on 31.08.2013, stating that the writ petitioner was irregular in operating the Over Head Tank in the village. He has committed dereliction of duties in performing his duties and responsibilities as Over Head Tank Operator. The writ petitioner submitted his explanation denying the allegations. However, without conducting domestic enquiry, the order of termination was issued by the third respondent in proceedings, dated 18.02.2014.

6.The order of termination cannot be issued without conducting domestic enquiry. Based on the charge memo, the writ petitioner had submitted his explanations. The disciplinary authorities are bound to conduct an enquiry providing opportunity to the delinquent official to establish his innocence or otherwise. Equally, the Management is also responsible to prove the charges for the purpose of imposing punishment. In the present case, no enquiry was conducted. The charge memo was issued. The writ petitioner submitted his explanation and thereafter, the impugned order of



termination has been issued. The procedures followed by the third respondent is not only improper but also in violation of the principles of natural justice. No employee can be terminated without conducting enquiry in case of an allegation of misconduct or dereliction of duties and responsibilities etc. In the present case, there is an allegation of misconduct and dereliction of duties. Thus, an enquiry is mandated.

7. Under these circumstances, the impugned order passed by the third respondent, in proceeding, dated 18.02.2014 stands quashed and the matter is remanded back to the third respondent and the third respondent shall conduct domestic enquiry with reference to the charge memo issued to the writ petitioner by affording opportunity to him. Based on the enquiry report, all further actions can be initiated by following the procedures contemplated. The third respondent is directed to complete the entire process of enquiry and pass final orders within a period of six months from the date of receipt of a copy of this order.

8. With these directions, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2020

Sub Assistant Registrar(CS)

To

1. The District Collector cum
Inspector of Panchayat,
Virudhunagar, Virudhunagar District.
2. The Block Development Officer,
Rajapalayam Panchayat Union, Virudhunagar District.
3. The President,
Muthusamipuram Panchayat,
Rajapalayam Panchayat Union,
Virudhunagar District.

+1 CC to M/s. Special Govt. Pleader (SR-19291[F] dated 07/10/2020)

W.P. (MD) .No.4273 of 2014
06.10.2020

sjj

<https://hccs.courts.gov.in/CaseDetails/3P-5C>