



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.06.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.764 of 2014

and

M.P(MD)No.1 of 2014

D.Chandrasekaran

... Petitioner

vs.

1.The Principal Secretary and the
Commissioner of Revenue Administration,
Chepauk, Chennai.

2.The District Revenue Officer,
Tiruchirappalli.

... Respondents

PRAYER:- Writ Petition is 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 impugned order passed by the second respondent dated 13.12.2013 in his order No.Na.Ka.A3/72316/2006 and quash the same in so far as the portion of the order relating to the deliberate absent from 24.08.2010 by the petitioner and to direct the respondent to pay arrears of salary from 19.02.2009 to 28.03.2010 (suspension period) and salary from 25.08.2010 to 12.12.2013 and other benefits namely Promotion, Increment etc.

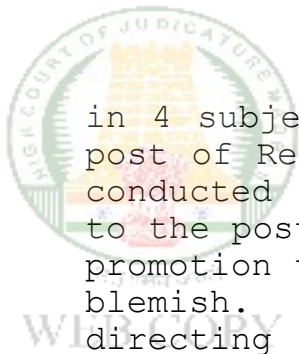
For Petitioner : Mr.A.S.Mujibur Rahman
For Respondents : Mr.J.Gunaseelan Muthaiah,
Additional Government Pleader

ORDER

This Writ Petition has been 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 impugned order passed by the second respondent, dated 13.12.2013 in his order No.Na.Ka.A3/72316/2006 and quash the same in so far as the portion of the order relating to the deliberate absent from 24.08.2010 by the petitioner and to direct the respondent to pay arrears of salary from 19.02.2009 to 28.03.2010 (suspension period) and salary from 25.08.2010 to 12.12.2013 and other benefits namely Promotion, Increment etc.

2. The petitioner was appointed as Office Assistant on 12.10.1979 and he has completed his old S.S.L.C., Syllabus but failed

<https://hservices.courts.gov.in/HsServices/>

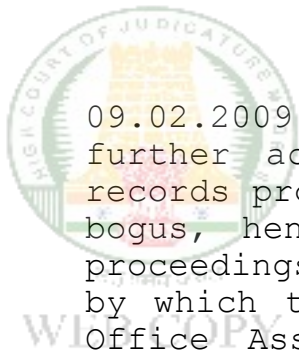


in 4 subjects though he was eligible to be appointed to the higher post of Record Clerk. The Tamil Nadu Public Service Commission has conducted examination for the promotional post and he was promoted to the post of Assistant on 01.09.1998 and from the date of the said promotion till date he has been serving in the said post without any blemish. On 19.01.2009 the second respondent has issued a notice directing him to show cause with respect to the Certificate submitted in the year 1992. A detailed reply was submitted on 09.02.2009 denying the allegation and requested to drop the further action in the matter. The second respondent on 06.03.2010 by the impugned order has reverted the petitioner to the post of Office Assistant with the minimum Time Scale of Pay. Challenging the said order, the petitioner has filed a writ petition in W.P.No.3642 of 2010. This Court by order dated 13.12.2011 has passed the following order:-

"13. In view of the above, the impugned order dated 06.03.2010 will stand set aside. Further, a liberty is given to the respondents to conduct an enquiry in accordance with the Rule-17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and thereafter consider the question of imposition of penalty. The writ petition will stand allowed to an extent indicated above."

3. Immediately, he sent a representation to the second respondent on 04.01.2012 enclosing the copy of the order of this Court and requested to pass necessary orders. The second respondent did not consider the same and hence, the petitioner has sent another representation on 12.10.2012 and requested them to pay salary from 25.08.2010 to till date. Since there was no reply from the second respondent, the petitioner constrained to file a Contempt Petition No.1332 of 2013 before this Court. In the contempt petition notice was ordered on 11.12.2013. The second respondent on 13.12.2013 has passed the order directing the petitioner to report for duty at Taluk Office, Trichy Taluk East. But the order states that the petitioner voluntarily stopped attending the Office from 25.08.2010 contrary to the facts. The petitioner has joined duty as Office Assistant with effect from 12.12.2013. Aggrieved by the portion of the order of the second respondent, the petitioner has filed the present writ petition seeking for granting salary from 25.08.2010 to 12.12.2013 and continuity of service and other benefits as he was about to retire on 31.08.2014.

4. The second respondent has filed the counter affidavit denying all the averments made in the affidavit and submitted that the petitioner has accepted the post of Office Assistant and has submitted the bogus S.S.L.C., Marksheet Reg.No.420676/Oct 1992-AA0966250 and on the basis of the same, he was promoted as Junior Assistant. The petitioner was issued with notice on 19.01.2009 directing the petitioner to show cause regarding his mark sheet and certificate submitted in the year 1992. Reply was given on



09.02.2009 by denying the allegation and requested to drop the further action in this matter. After thorough verification of records produced by the petitioner, it is found that the records are bogus, hence the District Revenue Officer, Trichirappalli in his proceedings R.C.A3/72316/2006, dated 06.03.2010 has passed an order by which the petitioner has been reverted to the original post of Office Assistant. After receiving the show cause notice, the petitioner stopped to attend the Office from 24.08.2010 since his forgery in correcting his mark sheet came to light through the news paper and other television news.

5. He further submitted that the second respondent has sent a complaint on 27.07.2010 to the Inspector of Police, Thuraiyur under Na.Ka.A3/72316/06, dated 27.07.2010 regarding the offence committed by the petitioner in manipulating the mark sheet and also sent a copy to the Deputy Superintendent of Police, Musiri. The Tahsildar, Manapparai has given a report to the District Collector, Trichy by letter dated 30.08.2010 regarding the unauthorized absence of the petitioner. The forgery committed by the petitioner in the mark sheet is found true by the Department of Government Examinations, Tamil Nadu and based on which the Secretary, State School Examination Board, Chennai has given a report on 15.10.2008 under Na.Ka.No.192555/V2-2/2006 and Tabulated Mark Register Report on 12.02.2014 wherein the marks 28 is rectified as 48 by the petitioner is found and through which he has committed such a grave offence in obtaining his promotion. Since he was not appearing in the office from 25.08.2010 to 12.12.2013 and he is not eligible to obtain any salary as he claimed in the petition. This Court by order dated 13.12.2011 set aside the impugned order dated 06.03.2010 and also given a liberty to the respondents to conduct an enquiry in accordance with the rules 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and thereafter consider the question of imposition of penalty and in the meanwhile, the petitioner has been retired from service.

6. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

7. This Court is of the view that the forgery committed by the petitioner has been proved by the authorities concerned and the petitioner has also attended the enquiry, the respondents are directed to send the enquiry report to the petitioner within a period of eight weeks from the date of receipt of a copy of this order and the petitioner has to pursue his remedy as per law. The payment of salary for the period of absence cannot be granted as per the judgment of the Hon'ble Supreme Court of India on principle that 'No work No pay' has to be taken into account and no salary can be paid for him.



8. In view of the above observations, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

WEB COPY

// True Copy //

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Sub Assistant Registrar(CS)

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Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal Secretary and the
Commissioner of Revenue Administration,
Chepauk, Chennai.

2.The District Revenue Officer,
Tiruchirappalli.

+1 CC to M/s.A.S.MUJIBUR RAHMAN, Advocate (SR-13119[F]

+1 CC to M/s.SPL GP (SR-13073[F] dated 04/06/2020)

W.P(MD)No.764 of 2014

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SMA/17/07/2020/4P/5C