

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.1254 of 2021

K.S.Thangarasa

... Petitioner

-vs-

1. The Commissioner,
Adi Dravidar and Tribal Welfare Department,
having office at Chepauk,
Chennai - 600 005.

2. The District Adi Dravidar and
Tribal Welfare Officer,
Vellore, Vellore District. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the respondents to permit the petitioner to join duty as Office Assistant as per the proceedings of the second respondent bearing Na.Ka1/17113/2018-2, dated 17.03.2020 and the further proceedings issued in Na.Ka.No.1/17113/2018-2, dated 11.06.2020 and further direct the respondents to treat the period from 23.03.2020 till the date on which the petitioner is permitted to join duty as Office Assistant as 'Compulsory wait' as has been contemplated under Fundamental Rules 9(6)(3) with all consequential service and monetary benefits within a time limit that may be specified by this Court.

For Petitioner : Mr.S.Mani

For Respondents : Mr.P.V.Selvakumar,
Additional Government Pleader

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O R D E R

This writ petition has been filed, seeking a direction to the respondents to permit the petitioner to join duty as Office Assistant as per the proceedings of the second respondent bearing Na.Ka1/17113/2018-2, dated 17.03.2020 and further proceedings issued in Na.Ka. No.1/17113/2018-2, dated 11.06.2020 and consequential direction to the respondents to treat the period from 23.03.2020 till the date on which the petitioner is

permitted to join duty as Office Assistant as 'Compulsory wait' as has been contemplated under Fundamental Rules 9(6)(3) with all consequential service and monetary benefits within a time limit that may be specified by this Court.

2. By consent of both sides, final orders are passed in the writ petition. Mr.P.V.Selvakumar, learned Additional Government Pleader takes notice for respondents.

3. The case of the petitioner is that initially, he was appointed as as Night Watchman on 19.10.2001 through Employment Exchange and posted at Government Adi Dravidar Welfare Boys Hostel, Aanaikattu, Vellore District. By proceedings dated 23.03.2020, the 2nd respondent appointed him in the post of Office Assistant and transferred to Tirupattur District. It is case of the petitioner that when he approached the Special Tahsildar, Tirupattur for joining duty, he did not permit him to work in the said place on the reasoning that a proposal was already mooted for appointment of a person to the post of Office Assistant, working in Tirupattur District. It is the grievance of the petitioner that the petitioner was already relieved form the post of Night Watchman, pursuant to the proceedings, dated 23.03.2020 and he is not allowed to join duty either in Vellore or Tirupattur, which forced him to send several representations to the 2nd respondent, with a request to issue an order of posting. As the respondents have neither paid salary to the petitioner from 23.03.2020 nor issued posting order to him, the petitioner has filed the present Writ Petition.

4. The learned Additional Government Pleader appearing for the respondents would submit that many complaints have been made against the petitioner that he was always under the influence of alcohol and brought disrepute to the School and one such incident was that on 13.1.2019, one student, namely, P.Chandru sustained injuries on his leg, in pursuance of the broken bottles thrown by the petitioner. Further, it is stated that the petitioner has not joined the present duty till now, as he is under the influence of alcohol.

5. In reply to the above, the petitioner submitted that, as per Fundamental Rule 9 (6) (3), he is entitled to get the benefits and he has been deprived of wages, due to the so called incident said to have been taken in the year 2019.

6. It is seen that the so called incident admittedly took place in the year 2019 and it cannot be cited as a reason to deny the wages due to the petitioner, that too in the year 2020. Therefore, it is directed that, without prejudice to the rights of the petitioner to claim wages, if any, depending upon the decision taken by the respondents, the entire period shall be

taken as a continuous service without any break. The issue whether the petitioner is entitled to wages or not for the period of his absence due to non providing of job by the respondents, namely, from the date he was relieved and transferred to some other place till the date of joining the place as Office Assistant, can be considered by the respondents, after providing an opportunity of hearing to the petitioner either physically or virtually, within a period of 60 days from the date of receipt of a copy of this order and communicate the same to the petitioner within three weeks thereafter.

With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vum

To:

1. The Commissioner,
Adi Dravidar and Tribal Welfare Department,
having office at Chepauk,
Chennai - 600 005.
2. The District Adi Dravidar and
Tribal Welfare Officer,
Vellore, Vellore District.

+1cc to Mr.S.Mani, Advocate, S.R.No. 9408
+1cc to the Government Pleader, S.R.No. 9507

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KV(CO)
GN(08/07/2021)

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