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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2021

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.8840 of 2021

and

W.M.P.No.9378 of 2021

A.Elumalai

.. Petitioner

Vs

1. The Principal Director,
Highways Department,
76, Sardar Patel Road,
Guindy,
Chennai - 600 025

2. The Chief Engineer,
Highways Construction and Maintenance,
76, Sardar Patel Road,
Guindy,
Chennai - 600 025

3. The Supervising Engineer,
Highways Construction and Maintenance,
Villupuram.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records in Proceedings No.44853/ Neer.1(2)/2008, dated 13.02.2020 on the file of the 2nd respondent and to quash the same as illegal and without jurisdiction.

For Petitioner : Mr.Govind Chandrasekhar

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

O R D E R

This writ petition has been filed to issue a Writ of Certiorari to call for the records in Proceedings No.44853/ Neer.1(2)/2008, dated 13.02.2020 on the file of the 2nd respondent and to quash the same as illegal and without



jurisdiction.

2. The case of the petitioner is that he was appointed as Junior Assistant on 13.02.2008 on compassionate ground in the place of his father, who died in harness. The petitioner's father was working as Gang Mazdoor at the time of his death. The petitioner's service came to be terminated vide order dated 13.02.2020 passed by the 2nd respondent on the ground that the 10th standard certificate produced at the time of his appointment was found to be forged. The present writ petition has been filed challenging the dismissal order on the ground that no opportunity has been afforded to him and therefore, the impugned order suffers from ex-facie illegality and deserved to be quashed on that ground alone.

3. The petitioner in the entire affidavit has not spelt out any reason for assailing the order of dismissal from service, but merely assailing the order stating that he was not given opportunity. In fact, in the entire affidavit, nothing has been whispered as a response to his serious charge of forgery committed by him. There are only two grounds that are raised in the affidavit in assailing the impugned order. One is that he was not given an opportunity and the other is that he was not put on notice, relying on the decision of the Hon'ble Supreme Court of India reported in 2019 SCC Online SC 1607(M/s. Daffodills Pharmaceuticals Ltd. & Anr. s. State of U.P. & Anr.)

4. This Court is unable to countenance the grounds of the facts in order to entertain the writ petition any further. A counter has also been filed on behalf of the respondents. The averments in paragraph Nos.6 to 8 are quite relevant for the purpose of taking a decision in this case which is extracted hereunder.

6. Further, the Secretary, Tamil Nadu State Government Examination (Secondary), Chennai, has stated that, the 12th Standard Mark sheet of the petitioner already verified and genuineness certificate was issued by their office in Lr.No.011128/VI-1/2015/ Dt.04.06.2015 was hereby cancelled as the 10th Standard Mark Sheet of the individual is found varied and differed from the Original Records available with their office. Immediately, this fact was reported to the Director General (H), Chennai - 25 through the Superintending Engineer (H) C&M Circle, Villupuram in Lr.No.416/2016/A2/Dt.05.02.2020. On receipt of the same, the



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Director general (H), Chennai - 25 has cancelled the temporary appointment order already issued to the petitioner by their office Pro.No.Nir(1)/10297/07/ Dt.07.02.2008, under Tamil Nadu State and Subordinate Ministerial Service General Rule 10(a)(1) and dismissed him from service vide their Pro.No.44853/ Nir(2)/2008/ Dt.13.02.2020 under the Tamil Nadu Government Employees Service Rule 2016, Rule 17(5) without giving any prior notice. Due to the report of variation of 10th Standard Mark Sheet, from the original received from the Joint Director, Government Examination Chennai - 600 006, the services of the petitioner in the post of Junior Assistant was not regularized till the date of dismissal order from service.

7. It is humbly stated that "the appointment of probation is appointment of trial" is the general rule. The guilt of the petitioner is proved by the letter of the Secretary, Tamil Nadu State Government Examinations (Secondary), Chennai - 600 006 vide Lr.No. 234909/V2/2009/ Dt.27.11.2019. The Director General (H) Chennai cancelled the temporary appointment of the petitioner and the same is valid as per Tamil Nadu State Employees General rules and it has not violated the principles of natural justice at all.

8. Further, it is humbly submitted that, the Director General Highways Department by proceedings No.44853/Neer 1(2)/ dt.13.02.2020 initiated a separate criminal proceeding against the petitioner and a CSR filed against him by the respondent bearing No.193/2020 at the Police Station, Sankarapuram on 19.02.2020. After hearing the petitioner side submission, the Police lodged a FIR against him bearing Cr.No.1601 dated 25.10.2020.

5. In view of the above, this Court does not think that the writ petition can be entertained at all, as there was enough material to show that the petitioner had come up with the bogus certificate and therefore, he was rightly dismissed from service.



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6. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Principal Director,
Highways Department,
76, Sardar Patel Road,
Guindy,
Chennai - 600 025
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+1cc to the Government Pleader SR.No.63785

W.P.No.8840 of 2021

NMI (CO)
GN(17/12/2021)