



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2021

CORAM

WEB COPY

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR**

**W.P (MD)No.7615 of 2019**  
**& WMP (MD) No.6054 of 2019**

S.Vasanth Kumar

... Petitioner

**Vs.**

1. The District Collector,  
Pudukottai District,  
Pudukottai.

2. The P.A to District Collector,  
O/o, the District Collectorate,  
Pudukottai District,  
Pudukottai.

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating to the impugned order passed by the 1<sup>st</sup> respondent in his proceedings Na.Ka..Pa.No.1/9548/2016(Valarchi) dated 20.03.2019 and quash the same as illegal.

For Petitioner : M/S. Mohammed Imran for Ajmal Associates

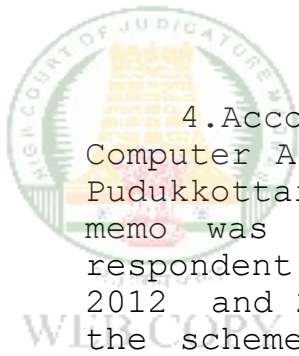
For Respondents : Mr.A.K Manikkam,  
Counsel for State.

**ORDER**

This Writ Petition has been filed seeking for issuance of a Writ of Certiorari, to call for the records relating to the impugned order passed by the 1<sup>st</sup> respondent in his proceedings in Na.Ka..Pa.No.1/9548/2016(Valarchi) dated 20.03.2019 and quash the same as illegal.

2. Heard the learned counsel appearing for the petitioner and the learned Counsel appearing for the respondents.

3. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.



4. According to the petitioner, the petitioner was working as Computer Assistant on 02.04.2008 at Avudayar Kovil Panchayat Union, Pudukkottai District on consolidated basis. Subsequently, a charge memo was issued to the petitioner on 03.05.2017 by the first respondent alleging that in respect of the financial years 2011-2012 and 2012-2013, there are number of fake persons working under the scheme of Mahatma Gandhi National Rural Employment Guarantee Scheme and thereby misappropriation seems to have taken place. The petitioner submitted his detailed explanation on 29.05.2017. But not satisfying with the petitioner's explanation, enquiry was ordered and an enquiry officer was appointed on 15.09.2017. Thereafter, on 30.10.2018, once again, the enquiry officer was appointed by the first respondent. After concluding the enquiry, the first respondent vide proceedings dated 20.03.2019, terminated the petitioner from services.

5. According to the petitioner, the impugned termination order passed by the first respondent without providing an opportunity to the petitioner and it does not contain any reasons and bereft of any particulars. Thereafter, the enquiry officer issued notice to the petitioner on 08.03.2019 calling upon the petitioner to attend the enquiry. The petitioner attended enquiry, but no further proceedings were conducted in the aforesaid enquiry and hence, neither the enquiry was completed nor the petitioner was furnished with the enquiry report. According to the petitioner, the said impugned termination order is illegal and bad in law and without assigning any reasons. Challenging the same, the petitioner has come forward before this Court by way of the present writ petition.

6. According to the petitioner, the impugned termination order passed by the first respondent was without giving any opportunity to the petitioner and no enquiry report has been furnished to the petitioner. Therefore, the aforesaid impugned order is liable to be set aside.

7. Mr.A.K.Manickam, learned counsel for the respondents would submit that the petitioner was not a regular employee and he has been working on a consolidated basis. Therefore, based on the charges levelled against the petitioner, the petitioner was terminated from service.

8. Heard the learned counsel appearing on either side and perused the available materials placed on record.

9. According to the petitioner, the impugned termination passed by the first respondent was without assigning any reasons and it is bereft of any particulars to the petitioner. Further, it is contended that the said impugned order passed by the respondent was without issuing any notice and when they are passing stigma as against the petitioner, due opportunity ought to be provided to the petitioner to defend the allegations made by the respondent.



10. A counter affidavit has been filed by the second respondent stating that the Director of Rural Development and Panchayat Raj, Chennai vide his letter dated 03.11.2016 has clarified that while initiating departmental disciplinary action under Tamilnadu Civil Services(Discipline and Appeal) Rules, charges under Rule 17(b) be framed against all officials and individuals concerned including the petitioner. However, since the petitioner is a temporary Computer Assistant, to whom the above rules are not applicable, necessary action may be pursued after giving one opportunity to explain his case.

11. According to the respondent, when the aforesaid Rules are not applicable, an opportunity is granted to the petitioner for submitting his explanation since the charge levelled against the petitioner was that while he was working as Computer Assistant in Avduayarkoil Panchayat Union during the periods 2011-2012 and 2012-2013, he has made bogus entries in respect of 56 Nominal Muster Rolls and after several explanations of the petitioner, the respondent has come to the conclusion that the petitioner has committed serious lapses and he is liable to be terminated and accordingly, he has passed the impugned order of termination.

12. The learned counsel appearing for the respondents has placed the enquiry report submitted by the enquiry officer as against the petitioner, but there is no material to show that a copy of the enquiry report has been furnished to the petitioner. The petitioner was working under the respondent on consolidated basis. Therefore, the Tamilnadu Civil Services (Discipline & Appeal) Rules will not apply to the petitioner. However, since the termination would create a stigma to the petitioner's career, the respondent ought to have provided an opportunity of personal hearing to the petitioner by furnishing a copy of the enquiry report and based on the explanation being made by the petitioner, final decision ought to have been taken by the respondent. On the face of the record, there are no such materials have been placed by the respondent Department. Therefore, this Court is of the view that the respondent has violated the principles of natural justice by not providing the copy of the enquiry report nor providing an opportunity to the petitioner to submit his explanation. Thus, the impugned order of termination is unsustainable and liable to be quashed.

13. In view of the above, the impugned order passed by the 1<sup>st</sup> respondent vide his proceedings in Na.Ka..Pa.No.1/9548/2016 (Valarchi) dated 20.03.2019 is hereby quashed and the matter is remitted to the 1<sup>st</sup> respondent to proceed with enquiry after furnishing the copy of the enquiry report to the petitioner and to pass appropriate orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this



14. With the above direction, the writ petition stands allowed.  
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dn

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 District Collector,  
Pudukottai District,  
Pudukottai.
2. The P.A to District Collector,  
O/o, the District Collectorate,  
Pudukottai District,  
Pudukottai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate ( SR-27838[F] dated 01/09/2021 )

+1 CC to M/s.GP ( SR-28041[F] dated 03/09/2021 )

**W.P(MD)No.7615 of 2019**  
**01.09.2021**

RD(6.10.2021) 4P 5C