



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON:	08.02.2021
DELIVERED ON:	29.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.6283 of 2018

and W.M.P. (MD) Nos.12317 & 6120 of 2018

(Through Video Conference)

P.Palpandi

... Petitioner

Vs

1) The Commissioner,
Most Backward Classes
and De-notified Communities,
Chepauk, Chennai 600 005

2) The Joint Director,
Kallar Reclamation,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the 2nd respondent pertaining to the impugned charge memo in Na.Ka.No.H10/26517/2008-01 dated 03.04.2017 and the impugned 2nd show cause notice Na.Ka.No.H10/26517/2008 dated 12.03.2018 and quash the same.

For Petitioner : Mr.D.Sasikumar
For Respondents : Mr.A.Muthukaruppan,
Additional Government Pleader

O R D E R

The petitioner herein, was appointed as Cook on 16.09.1997 under the second respondent. After about 20 years, he was suspended from his services on 25.01.2017 on contemplation of grave charges. Accordingly on 03.04.2017, a charge memo was issued alleging that the petitioner herein had obtained his appointment based on false educational certificates evidencing that, he has passed eight standard and that he had been wrongfully receiving salaries for the past 19 years and also had deprived the opportunities of others for the employment, in his place.

2. Based on an enquiry report dated 27.02.2018, charges were
<https://hcservices.ecourts.gov.in/hcservices/> imposed against the petitioner on the ground that the



petitioner had admitted that he had studied only till 3rd standard. Consequently, the second show cause notice dated 12.03.2018 was issued, calling for his explanation on the proved charges. The charge memo and the second show cause notice, are put under challenge in the present writ petition.

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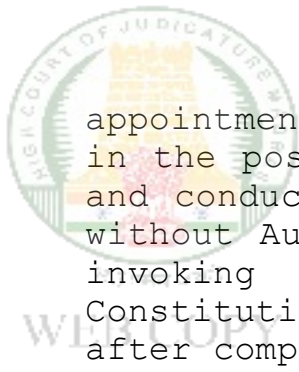
3. The post of a Cook, is a basic service, as per the provisions of the Special Rules for Tamil Nadu Basic Services and the qualifications prescribed for appointment to the post of Cook, as per the Rule is, one's ability to read and write. The impugned charges are to the effect that the petitioner furnished a bogus educational certificate suggesting that he had passed eight standard and had obtained employment on the basis of this bogus certificate. He is also been charged on the ground that on the basis of the employment obtained by him, on the strength of the bogus certificate, he had misappropriated the Government salaries for 19 years and also deprived the chance of others for appointment to the said post.

4. As stated earlier, no educational qualification has been prescribed for the post of Cook, which is a basic service and therefore, a certificate evidencing the educational qualification of a candidate, cannot be a requirement for appointment to the post of Cook and hence, production of such a certificate for the service of a cook, has no significance. While that being so, the exercise adopted by the respondents in attempting to verify the genuineness of the petitioner's school certificate, vis-a-vis, the petitioner's appointment or continuation of service is a futile exercise. Hence, the investigation into such insignificant and irrelevant testimonials, as also the conduct of disciplinary proceedings, so as to affect his conditions of service, is unwarranted and therefore, impermissible.

5. In this regard, a learned Judge of this Court in similar circumstances, in the case of **C.Elumalai Vs. the Superintendent of Police, Kanchipuram and others**, (W.P.No.12604 of 2013), had held as follows:-

"There is considerable force in the contention of the learned counsel appearing for the petitioner that the qualification for appointment in the basic service is a person must know to read and write Tamil and therefore, the production of school certificate that the petitioner had passed 8th standard assumes no significance at all, in which case, the production of certificate was not the basic factor which was taken into consideration while appointing the petitioner as Sweeper."

6. When the certificates and testimonials evidencing the educational qualification is not an essential document, either for



appointment to the post of Cook or for continuation of his service in the post, the exercise of investigating into such testimonials and conducting a departmental enquiry by the second respondent is without Authority and therefore, this Court would be justified in invoking its extraordinary powers under Article 226 of the Constitution of India, in quashing such departmental action, even after completion of the enquiry.

7. For the reasons stated above, the charge memo in Na.Ka.No.H10/26517/2008-01 dated 03.04.2017 and the impugned 2nd show cause notice Na.Ka.No.H10/26517/2008 dated 12.03.2018 are quashed and the writ petition stands Allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 Commissioner,
Most Backward Classes
and De-notified Communities,
Chepauk, Chennai 600 005
- 2) The Joint Director,
Kallar Reclamation,
Madurai.

+1 CC to M/s.SPL GP (SR-14364[F] dated 30/03/2021)

+1 CC to M/s.D.SASIKUMAR, Advocate (SR-14610[F] dated 31/03/2021)

W. P. (MD) No. 6283 of 2018

29.03.2021

KVN(CO)

AS (12.05.2021) 3P 5C
<https://hcservices.courts.gov.in/hcservices/>