



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.11.2021

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. (MD) .No.8730 of 2018

and

W.M.P (MD) .No.4695 of 2021

Tamilselvan

... Petitioner

vs.

1.The Director,
Department of Technical Education (Polytechnical College),
Madras.

2.The Principal,
Government Polytechnical Colleges,
Kaniyalampatti,
Karur.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 to reinstate the petitioner in the second respondent's office as a Watchman, with all monetary benefits from June 2017 - March 2018.

For Petitioner : Mr.V.Lakshmanan
For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader

O R D E R

The petitioner had been engaged in the Government Polytechnical College, Kaniyalampatti/R2 as a Night Watchman along with six other persons. The factum of the petitioner's employment as Night Watchman is not in dispute and this is also duly supported by a communication bearing Letter No.985/E2/2017, dated 07.07.2017, obtained under Right to Information by one of the co-appointees of the petitioner, a third person.

2.He was in service for 5 ½ years and the course of his employment was uneventful and unblemished. There have been no allegations or charges of any nature with regard to misconduct or inefficiency in rendition of services.



3. On 02.06.2017, the petitioner was prevented from attending to his duty. This is also not disputed by the respondent. On the other hand, it is justified stating that the post of Night Watchman had been filled by staff, who had been found to be surplus in the Annamalai University. The petitioner has not challenged his abrupt termination from services by virtue of no order having been passed in this regard.

4.He seeks a Mandamus reinstating him to the post which he held earlier, with all monetary benefits from June 2017 to March 2018. The defence put up by the respondents is that the petitioner was not working as against a sanctioned post, he was paid daily wages and that the post of Night Watchman was filled by surplus staff who was occupying sanctioned posts in the Annamalai University.

5.The counter relies upon G.O.(Ms).No.22, Personal and Administrative Reforms Department, dated 28.02.2006. However, in the course of hearing, learned Additional Government Pleader would fairly state that the aforesaid Government Order relates only to regularisation of services and has no bearing upon the present case.

6.The post of Day / Night Watchman in R2 College, while not being a sanctioned post, is a necessary and essential post. This is an undisputed position, also for the reason that it continues to be manned by a person transferred from Annamalai University to fill in the post. I am at a loss to understand why surplus staff appointed to a post in a University in Thanjavur must be deployed in a Government College in Karur. If the vacancies as on the date of such transfer were ascertained, I have no doubt that vacancies would well have been available in Thanjavur or in the vicinity thereof where the surplus staff could have been deputed and accommodated.

7.The petitioner, while perhaps not holding a legal entitlement in terms of his employment, certainly requires to be treated fairly by the State and by his employer. Services of 5 ½ years cannot be abruptly terminated at the whims and fancies of the authorities and that too for no fault of his, as there are no allegations of any nature levelled against him.

8.I am loath to direct reinstatement in the same post simply for the reason that it would unsettle the present occupant of the post.

9.Thus, Mandamus is issued to R1, being the Director, Department of Technical Education to locate alternate, appropriate employment suitable to the qualification and experience of the petitioner and ensure his appointment within a period of eight weeks from date of uploading of a copy of this order upon the official website of this Court.



10.To facilitate this process, the petitioner shall appear before R1 with all relevant details and materials on 29.11.2021 and accompanied by a copy of this order as uploaded. This Writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

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 Director,
Department of Technical Education (Polytechnical College),
Madras.

2.The Principal,
Government Polytechnical Colleges,
Kaniyalampatti, Karur.

+2 CC to M/s.V.LAKSHMANAN, Advocate (SR-35286[F] dated 22/11/2021)

+1 CC to M/s.SPL GP (SR-35311[F] dated 22/11/2021)

ORDER MADE IN
W.P. (MD) .No.8730 of 2018
19.11.2021

ps (CO)
TR/SKN(25.11.2021) 3P 6C