



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2021

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.8016 of 2016

and

W.M.P. (MD)No.6566 of 2016

WEB COPY

J.G.T.Peter Christian

... Petitioner

vs..

1.The Chairman,
V.O.Chidambaranar Port Trust,
Tuticorin.

2.The Deputy Conservtor,
Marine Department,
V.O.Chidambaranar Port Trust,
Tuticorin.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in his proceedings in No.M-19/04/2011-Estt.D.528, dated 22.03.2016 and set aside the same as illegal and consequently direct the respondents to permit the petitioner to join duty as Sign Writer cum Painter within stipulated time as may be fixed by this Court.

For Petitioner : Mr.T.A.Ebenezer
For Respondents : Mr.S.Yaswanth

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order dated 22.03.2016 and consequently, direct the respondents to permit the petitioner to join duty as sign writer cum painter.

2. The petitioner was appointed as Sign Writer in Mechanical Engineering Department attached to the Marine Department of the Port and joined duty on 26.06.1995. By order, dated 15.09.1995, the post was re-categorized as Skilled Grade-II (Painter). The petitioner was working for more than 16 years until 27.09.2011 as Painter cum Sign Writer. Due to his family problem, he submitted his resignation letter on 27.09.2011. The second respondent, vide proceedings, dated 27.02.2013, directed the petitioner to pay Rs.39,078/- (Rupees Thirty Nine Thousand and Seventy Eight only) which is the outstanding computer advance amount to be recovered from the petitioner, in order to accept the resignation. But, the petitioner has not paid the same and therefore, the petitioner's resignation letter was neither accepted nor rejected.



3. The petitioner submitted that he came out of all problems and he was ready to continue the job. Therefore, he submitted a representation to withdraw his resignation and to grant permission to join duty on 17.12.2015. Since the same was not considered, the petitioner preferred a writ petition in W.P.(MD)No.1124 of 2016 for a Mandamus to direct the first respondent to accept the withdrawal letter and to permit the petitioner to join duty as Sign Writer. This Court directs the respondents to consider the representation within six weeks, vide order, dated 20.01.2016. In the meantime, the second respondent, vide proceedings, dated 22.03.2016, passed an order accepting the resignation. Aggrieved over the same, the present writ petition is filed.

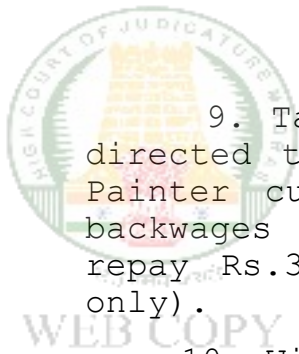
4. The second respondent has filed a detailed counter affidavit stating that the petitioner is a habitual absentee on several occasions. The petitioner was directed to appear before the Senior Medical Officer, but he has not appeared and the petitioner has not paid Rs.39,078/- (Rupees Thirty Nine Thousand and Seventy Eight only) until today. Now, as on date, the post of Painter cum Sign Writer has been abolished from the year 2018 onwards.

5. Heard Mr.T.A.Ebenezer, learned Counsel appearing for the petitioner and Mr.S.Yaswanth, learned Counsel appearing for the respondents.

6. The respondents have submitted that the post was abolished from the year 2018 onwards. For this, the petitioner has submitted that some of the persons are still working as Painter cum Sign Writer in the respondent's Port. This plea of the petitioner is rejected, since the respondents have decided to abolish the post from the year 2018 onwards, that cannot mean that the petitioner ought to be posted as Painter cum Sign Writer. When the post is abolished, the incumbent employee who is working as Painter cum Sign Writer, could continue in the service until they attain superannuation. However, this Court is of the opinion that if at all the petitioner is granted any relief, he ought to be posted in any similar post, if the post is abolished.

7. The respondents have taken another plea that the petitioner is a habitual absentee. The respondents have submitted that due to some family circumstances and problems, the petitioner had submitted his resignation letter. The petitioner has also submitted that his in-laws died on the same day and the entire family were traumatized and therefore, he submitted his resignation before the authority. Therefore this Court is of the opinion that the petitioner is entitled for re-employment.

8. The respondents submitted that the petitioner has not repaid Rs.39,078/- (Rupees Thirty Nine Thousand and Seventy Eight only) until now. This Court is of the view that the petitioner is bound to pay the amount.



9. Taking all these factors into account, the respondents are directed to grant re-employment in any post, which is similar to Painter cum Sign Writer. The petitioner is not entitled to any backwages and continuity of service. The petitioner is directed to repay Rs.39,078/- (Rupees Thirty Nine Thousand and Seventy Eight only).

10. With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

jbr

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 Chairman,
V.O.Chidambaranar Port Trust,
Tuticorin.

2.The Deputy Conservtor,
Marine Department,
V.O.Chidambaranar Port Trust,
Tuticorin.

Order made in
W.P. (MD)No.8016 of 2016
07.12.2021

SAR(CO)
GC(28.12.2021) 3P 3C