



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WEB COPY

Writ Petition (MD)No.23420 of 2017

T.Mathiyazhagan

... Petitioner

Vs.

1.The Executive Officer,
Kanyakumari Town Panchayat,
Kanyakumari,
Kanyakumari District.

2.The Assistant Director of Town Panchayats,
Kanyakumari District Collectorate Compound,
Nagercoil,
Kanyakumari District.

3.The District Collector,
Inspector of Panchayat,
Kanyakumari District,
Nagercoil.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondents to reinstate the petitioner in service as Pump Operator with service and other monetary benefits retrospectively.

For Petitioner : Mr.T.Arul

For Respondents : Mr.A.Karthik

Government Advocate

O R D E R

This writ petition has been filed for a direction to the respondents to reinstate the petitioner in service as Pump Operator with service and other monetary benefits retrospectively.

2. The case of the petitioner is that his name was sponsored by the Employment Exchange for selection of Pump Operator in the first respondent Town Panchayat. Thereafter, the first respondent selected the petitioner as Pump Operator on consolidated pay of Rs.600/- per month, by his proceedings dated 09.01.2002. The said appointment was also approved by way of resolution No.1, dated 09.01.2002. While he was in service, he was falsely implicated in the criminal case for the offences under Sections 302 r/w. Section 34 of I.P.C. in S.C.No.110 of 2006 on the file of the Sessions Court, Nagercoil. During trial, the petitioner met with an accident and sustained fracture in his right and left hand and even after treatment, he



could not recover fully. In the mean while, the learned Sessions Judge, Nagercoil acquitted the petitioner, on 24.02.2011. However, the petitioner was not allowed to join duty. Hence, the present writ petition has been filed with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that the petitioner was not involved in the criminal case and he has been falsely implicated and subsequently, the same ended in acquittal. However, without conducting any disciplinary proceedings, denial of employment by the first respondent is unsustainable one. Hence, he prayed for a direction to the respondents to reinstate the petitioner in service as Pump Operator with service and other monetary benefits.

4. Heard the learned counsel for the petitioner, learned Government Advocate appearing for the respondents and perused the materials available on record.

5. The facts in the present case are not in dispute. The petitioner was appointed as temporary Pump Operator in the first respondent Panchayat. However, according to the petitioner, he was orally terminated from service, due to the criminal case pending against the petitioner. Though the petitioner claimed that oral termination order was passed by the first respondent, this Court cannot adjudicate the issue whether the oral termination of the petitioner is right or not, under Article 226 of the Constitution of India and it has to be adjudicated only before the appropriate forum. Hence, the prayer sought for by the petitioner is not maintainable. Accordingly, this Writ Petition is dismissed with liberty to the petitioner to work out the remedy, in the manner known to law. No costs.

Sd/-

Assistant Registrar (CSII)

// 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 Executive Officer,
Kanyakumari Town Panchayat,
Kanyakumari,
Kanyakumari District.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Assistant Director of Town Panchayats,
Kanyakumari District Collectorate Compound,
Nagercoil,
Kanyakumari District.

3.The District Collector,
Inspector of Panchayat,
Kanyakumari District,
Nagercoil.

+1 CC to M/s.SPL GP (SR-10211[F] dated 10/03/2021)

+1 CC to M/s.T.ARUL, Advocate (SR-10469[F] dated 11/03/2021)

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KB(24.06.2021) 3P 6C