



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition No.8681 of 2010

T.Ajith Kumar

... Petitioner

vs.

1. The Union of India,
rep. by the Director General of Health Services,
Nirman Bhavan,
New Delhi - 110 011.
2. The Director,
BCG Vaccine Laboratory,
Guindy,
Chennai 600 032.
3. The Central Administrative Tribunal,
Madras Bench,
represented by its Deputy Registrar,
Chennai 600 104.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records relating to the impugned order of the 3rd Respondent in O.A.No.490 of 2007, dated 21.07.2009, and quash the same and allow the Original Application.

For Petitioner : Mr.P.Mohanraj

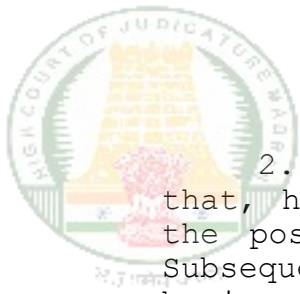
For Respondents 1 & 2 : Mr.S.Janarthanam

For 3rd Respondent : Tribunal

O R D E R

(Order of the Court made by S.VAIDYANATHAN,J.)

Aggrieved by the order dated 21.07.2009 passed by the Central Administrative Tribunal in O.A.No.490 of 2007, the Applicant therein has come up with this Writ Petition.



2. Before the Tribunal, the case of the Applicant was that, he was initially recruited through Employment Exchange in the post of Assistant Mechanic on adhoc basis on 15.11.1989. Subsequently, he was promoted to the post of Mechanic on adhoc basis with effect from 01.10.1991. Thereafter, he was appointed to the same post of Mechanic on direct recruitment on temporary basis with effect from 01.03.1998 vide order dated 26.02.1998 on probation for a period of two years.

3. During the period of probation, the Applicant was directed to produce his Community Certificate and on production of the same, it was found to be a bogus one. Hence, a criminal case was registered against the Applicant in Crime No.1236 of 1999 under Sections 467, 468 read with Sections 471 and 420 I.P.C. The Applicant was also placed under suspension on 02.05.2000 in accordance with Rule 10 of CCS (CCA) Rules, 1965. As the probation period was nearing completion, the Departmental Proceedings Committee (DPC) decided to discharge the services of the Applicant. Due to unsuccessful completion of probation, the Applicant was terminated from service vide order dated 17.08.2001 in terms of Rule 5(1) of CCS (Temporary Service) Rules, 1965. Challenging the order of termination, the Applicant preferred an Appeal dated 15.09.2001 to the Appellate Authority/Director General of Health Services. However, the Appellate Authority, vide letter dated 24.03.2006, rejected the Applicant's Appeal on the ground that, the Appeal has been submitted under Rule 23 of CCS (CCA) Rules.

4. It was contended by the Applicant before the Tribunal that, Rule 5(1) of CCS (Temporary Service) Rules, 1965 has been invoked to deny an opportunity to defend himself in the disciplinary proceedings and hence, such an order is not sustainable.

5. While so, Respondents therein took a stand that, the Applicant has suppressed the fact that, in the year 2002, he was found guilty under Sections 467, 468 read with 471 and 420 I.P.C. and convicted and sentenced for two years Rigorous Imprisonment with a fine of Rs.1000/- by the Metropolitan Magistrate Court, Chennai, vide order dated 21.08.2002, in relation to production of bogus Community Certificate. Challenging the order dated 21.08.2002 passed by the Metropolitan Magistrate Court, Chennai, pertaining to production of bogus Certificate, the Applicant filed an Appeal before the Additional City Civil Court, Chennai, whereby, the Court modified the sentence of two years Rigorous Imprisonment into one day till rising of the Court, but, the fine amount of Rs.1000/- was enhanced to Rs.2,000/- for each and every Section of conviction.



6. Seeking to quash the termination order dated 17.08.2001, the Applicant filed O.A.No.490 of 2007. The Tribunal dismissed the said Original Application by holding that, though the sentence has been modified by the Appellate Court to that of imprisonment of one day till rising of the Court and the fine amount was enhanced, the conviction has not been set aside.

7. Learned counsel appearing for Respondents 1 and 2 submitted that, except the offence under Section 471 I.P.C., other offences were not confirmed against the Petitioner/Applicant.

8. Heard the learned counsel on either side and perused the material documents available on record.

9. It is an admitted fact that, the Petitioner/Applicant produced bogus Community Certificate, for which, he was terminated from service. As he was found guilty under Sections 467, 468 read with 471 and 420 I.P.C., he was convicted and sentenced to undergo two years Rigorous Imprisonment with a fine of Rs.1000/- by the Metropolitan Magistrate Court, Chennai. On Appeal by the Petitioner/Applicant before the Additional City Civil Court, Chennai, the sentence was modified into one day till rising of the Court, but, the fine amount of Rs.1000/- was enhanced to Rs.2,000/- for each and every Section of conviction. Ultimately, the punishment imposed on the Petitioner/Applicant was modified and it was not erased in toto.

10. A person who has been convicted for an offence even under a single Section cannot have the right to continue in Government service. That apart, the employer is empowered to terminate the services of an employee during his probation period, if his services have not been confirmed.

11. Taking note of the fact that, the Tribunal has completely analyzed the pleadings of both parties and come to a definite conclusion with regard to production of bogus Community Certificate by the Petitioner/Applicant, we are of the view that the Petitioner's service has rightly been terminated and that, the order of the Tribunal does not call for any interference by this Court.

In fine, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-VII)

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Sub Assistant Registrar



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