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W.P.No.22270 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.22270 of 2013

A.Jabarullah

...Petitioner

Vs.

1.The District Collector (P.D. Section),
Coimbatore District,
Coimbatore.

2.The Commissioner,
Pollachi South,
Panchayat Union,
Coimbatore District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records pertaining to the order bearing Roc.No.4149/2012/K4 dated 07.08.2013 of the first respondent herein and to quash the same insofar it relates to the petitioner.

For Petitioner : Mr.K.Venkataramani, Sr. Counsel
for Mr.P.V.Selvakumar

For Respondent-1: Mr.V.Nanmaran, AGP

For Respondent-2: No Appearance



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ORDER

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Heard Mr.K.Venkataramani, learned Senior counsel appearing for the petitioner and Mr.V.Nanmaran, learned Additional Government Pleader for the first respondent.

2. The petitioner herein, who had put in 10 years of service as Works Assistant in the Panchayat Union of Coimbatore District, was brought under regular time scale of pay by the District Collector, Coimbatore through his proceedings in Na.Ka.No.4149/2012/K5 dated 16.08.2012. After about one year, the appointment has been cancelled on 07.08.2013 by the same Authority alleging that, the petitioner had not put in 10 years of service. The said order of cancellation of the appointment of the petitioner, is put under challenge in the present Writ Petition.

3. The learned Senior counsel for the petitioner pre-dominantly raised a ground stating that, prior to cancellation of the appointment order, no prior notice was given and therefore, is in violation of principles of natural justice. The learned Additional Government Pleader submitted that the order of cancellation of the appointment of the petitioner was taken pursuant to an enquiry conducted by the revenue officials.



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4. It is not in dispute that the first respondent herein, while bringing the petitioner into regular time scale of pay, had found that the petitioner herein had put in 10 years of service. It is on this basis, the service of the petitioner was regularised. Whenever the service of the Government employee is regularised and the department is of the view that the appointment of the employee requires to be cancelled, there is a duty cast on them to issue a notice of their contemplated action against him, seeking for his explanation. It is only on consideration of such an explanation, any further course of action can be initiated. There is no dispute in the present case that prior to the impugned order of cancellation of the appointment, the petitioner was not issued with the prior notice. Thus, the consequential action would be in gross violation of the principles of natural justice and on this short ground, the order itself, cannot be sustained. It is now brought to the notice of this Court that in view of the interim orders granted, the petitioner herein, is still continuing in service.

5. Accordingly, the impugned order passed by the first respondent in Roc. No.4149/2012/K4 dated 07.08.2013, is quashed. In view of the quashing of the impugned order, the respondents shall



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not disturb the service of the petitioner herein. However, if the respondents are of the view that the appointment of the petitioner requires interference, they are at liberty to issue a notice of their contemplated action, calling for the explanation from the petitioner. Any further course of action, can be taken only on consideration of the objections given to such a show cause notice. The Writ Petition stands allowed. There shall be no order as to costs.

17.10.2022

Index:Yes/No
Internet:Yes/No
Order : Speaking /Non-speaking

DP



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To

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Coimbatore District,
Coimbatore.
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Pollachi South,
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M.S.RAMESH,J.

DP

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