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W.P.No.14396 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2022

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

**W.P.No.14396 of 2021
and
W.M.P.No.15306 of 2021**

M.Varadharajan

... Petitioner

Vs.

1.Tamil Nadu Civil Supplies Corporation,
Represented by its Managing Director,
No.10, Thambusamy Road,
Kilpauk,
Chennai - 600 010.

2.The General Manager (Administration),
Tamilnadu Civil Supplies Corporation,
No.10, Thambusamy Road,
Kilpauk,
Chennai - 600 010.

3.The Regional Manager,
Tamilnadu Civil Supplies Corporation,
Erode.

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the third respondent dated 11.10.2019 bearing Reg. Na.Ka.No.004/2019/AE6 and that of the second



W.P.No.14396 of 2019

respondent dated 02.09.2020 bearing ref: Procs.Order No.AD1/49398/2019, quash the same and consequently direct the respondents to continue the services of the petitioner as seasonal Bill Clerk with all continuity of service, service benefits, backwages.

For Petitioner : Mr.T.Saikrishnan

For Respondents : Mr.C.Selvaraj

ORDER

This Writ Petition has been filed challenging the impugned orders dated 11.10.2019 passed by the third respondent and 02.09.2020 passed by the second respondent, under which the petitioner's services as a seasonal Bill Clerk has been terminated.

2. The petitioner is a Bill Clerk with the first respondent Corporation, appointed on seasonal basis. The petitioner has challenged the impugned order on the following grounds:

a) No show cause notice was issued to the petitioner to submit his explanation with regard to the allegations levelled against him;

b) No charge memo was issued to him;



c) No enquiry proceeding was conducted and no opportunity for the petitioner was given to submit his explanation and to prove his innocence;

d) The petitioner was appointed through Employment Exchange and nowhere he was called upon to disclose the pendency of any criminal case prior to his appointment;

e) The petitioner came to know about the fact that, only due to the non disclosure of the criminal case, he has been terminated from service only through the impugned order dated 11.10.2019.

3. A Counter Affidavit has been filed by the respondents, denying the contentions of the petitioner on the following grounds:

a) The petitioner has accepted his involvement in the leakage of question paper in TNPSC Group - II Examination, held on 12.08.2012 to the enquiry officers who accordingly have submitted a report to the third respondent on 24.04.2019;

b) A criminal case was registered against the petitioner in Erode Town Police Station in P.S. Crime No.1423/12 under Sections 120 (B), 406, 420 of I.P.C. read with 66(B) and 84 (B) of the Information Technology Amendment Act. He was arrested for the same on 13.08.2012 and put in jail



WEB COPY

for more than forty days. During interrogation, the petitioner had confessed about his commission of offence along with other accused and seizures were also made relating to the case. Subsequently, as per the order of the DGP, Tamil Nadu, the cases were transferred to CBCID for further investigation. The petitioner has failed to disclose his criminal record before being appointed as a Bill Clerk in the first respondent Civil Supplies Corporation.

4. According to the respondents, only due to the aforementioned reasons, after affording an opportunity of hearing, the petitioner was terminated from service under the impugned orders. Therefore, according to them, there is no arbitrariness or illegality in the impugned orders.

5. Admittedly, the petitioner was appointed as a Bill Clerk in the year 2015. It is a seasonal employment and he was appointed through the Employment Exchange. As seen from the impugned orders dated 11.10.2019 and 02.09.2020, no show cause notice was issued to the petitioner prior to his termination. As seen from the impugned orders, eventhough there is a reference to an enquiry report, it is not known as to whether the same was furnished to the petitioner or not, by the respondents.



WEB COPY

6. In this Writ Petition, the petitioner categorically contends that he was not furnished with the enquiry report. The petitioner also contends that no charge memo was issued by the respondents before terminating his services.

7. The impugned orders also do not reveal as to whether any charge memo was issued to the petitioner or not, prior to holding of enquiry. The petitioner was also not granted any opportunity, as seen from the impugned orders, to submit his explanation with regard to the charges levelled against him by the respondents. The petitioner was appointed by the first respondent Corporation through the Employment Exchange. The Employment Exchange would have scrutinized the petitioner's application and only thereafter would have registered his name in the Employment Exchange.

8. Only for the reason that the petitioner was involved in a criminal case, prior to his appointment, his service has been terminated under the impugned orders dated 11.10.2019 and 02.09.2020. Having got himself



WEB COPY

registered under the Employment Exchange, the respondents ought to have adhered to the Principles of Natural Justice by providing the petitioner with sufficient opportunity of hearing before terminating his service. However, the same has not been done so, as seen from the impugned orders.

9. The petitioner was appointed in the year 2015 but his termination has been effected pursuant to the impugned orders in the year 2019 and 2020. The alleged criminal offence registered against the petitioner is of the year 2012 much prior to the date of his appointment as a Bill Clerk in the year 2015. Being a non-speaking order and an order passed by violating the Principles of Natural Justice, the impugned orders dated 11.10.2019 and 02.09.2020 passed by the third and second respondents respectively have to be necessarily quashed and the Writ Petition will have to be allowed.

10. Accordingly, the impugned orders dated 11.10.2019 and 02.09.2020 are hereby quashed and the Writ Petition is allowed. However, liberty is granted to the respondents to initiate fresh disciplinary proceedings against the petitioner by adhering to the Principles of Natural Justice and in accordance with law. Being a seasonal worker, it is made



W.P.No.14396 of 2022

clear that the petitioner shall not claim any arrears of monetary benefits. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

WEB COPY

08.12.2022

Index : Yes/No
Speaking Order : Yes / No
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W.P.No.14396 of 2017

To

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WEB COPY



W.P.No.14396 of 2021

ABDUL QUDDHOSE. J.,

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W.P.No.14396 of 2021

08.12.2022