

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 23-06-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.20977 of 2014
And
MP No.1 of 2014

T.Kathiravan

..Petitioner

vs.

1.The Puducherry Agro Service and Industries
Corporation Ltd.,
Represented by its Managing Director,
Agri House, Thattanchavady,
Government of Union Territory of Puducherry,
Puducherry - 605 009.

2.The General Manager (Micro Biology),
The Puducherry Agro Service and Industries
Corporation Ltd.,
Agri House, Thattanchavady,
Government of Union Territory of Puducherry,
Puducherry - 605 009.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent relating to the impugned charge memorandum dated 16.06.2014 bearing Ref.No.6-1-233/ PASIC/ Estt/PF/1995/599 and quash the same and consequently direct the respondents to relieve the petitioner from service with effect from 19.03.2014 and pay all arrears of his salary, bonus and other arrears payable to him including Pension and other service benefits, if any, with interest at 12% per annum till date of disbursement.

For Petitioner : Mr.R.Saravanan

For Respondent-1 : Mr.P.Murali

For Respondent-2 : No Appearance

O R D E R

The charge memo dated 16.06.2014 issued by the first respondent is sought to be quashed in the present writ petition.

2. The petitioner was appointed as Marketing Executive in the first respondent-Corporation owned by the Government of Puducherry. Initially, the petitioner was appointed on contract basis on consolidated pay and thereafter his services were regularised in the sanctioned post of Marketing Executive and the time scale was also granted. The probation of the writ petitioner was declared on 01.03.1998 and he was subsequently appointed with effect from 01.03.1998.

3. The learned counsel for the petitioner mainly contended that the petitioner submitted letter of resignation on 19.12.2013 on the ground that the first respondent had not paid the salary for several months. For about one year the petitioner was working without any salary. Thus, the petitioner was forced to submit his resignation in order to take further appointment in any other place. The said resignation of the petitioner was also not responded properly by the first respondent. To his shock and surprise, the impugned charge memo has been issued on 16.06.2014 after a lapse of about six months from the date of submission of resignation by the writ petitioner.

4. As per the terms and conditions of service, an employee is entitled to submit three months notice for termination of services. This being the rules in force, the resignation of the petitioner was deemed to have been accepted by the respondents for all purposes and therefore, the consequential charge memo is liable to be set aside.

5. The learned counsel appearing on behalf of the first respondent objected the contentions raised on behalf of the petitioner by stating that the writ petitioner earlier submitted his resignation letter on 30.05.2012 and the said resignation was withdrawn by him on 15.06.2012. But in respect of the subsequent resignation letter dated 19.12.2013, no order has been passed by the first respondent. However, the learned counsel for the first respondent states that the petitioner remained unauthorisedly absent and therefore, the charge memo has been issued subsequently by the Competent Authority.

6. This Court is of the considered opinion that the services of the petitioner is governed by Puducherry Agro Service and Industries Corporation Limited (Staff Service) Rules, 1988. As per Clause 16(2) of the said Rules, "the services of an employee, who has completed his period of probation satisfactorily, shall be liable to termination at any

time by a notice of three months in writing given either by the employee to the Appointing Authority or by the Appointing Authority to the employee". Therefore, both the employer and employee are entitled to issue three months notice for the purpose of termination of services.

7. In the present case, no doubt, the petitioner submitted his resignation on 30.05.2012, which was withdrawn by him on 15.06.2012. Thereafter second resignation was submitted by the petitioner on 19.12.2013, which was received by the first respondent on the same day i.e., on 19.12.2013 itself. Thus after a period of three months, the petitioner is deemed to be relieved from service for all purposes and thus, the charge memo issued beyond the period of three months from the date of submission of resignation by the writ petitioner, which was acknowledged by the first respondent became invalid and thus, the charge memo cannot be proceeded with by the first respondent as as on the date of issuance of charge memo the employer and employee relationship ceased to exist.

8. The learned counsel for the petitioner contended that the petitioner was working about one year without salary. The said factum was admitted by the first respondent in their counter-affidavit stating that "however, the salaries/wages could not be paid for the period from July 2011 to March 2012 (9 months) and from July 2013 to March 2014 (9 months)". Thus, the salary due to the petitioner had not been paid for about 18 months and under those circumstances, the petitioner submitted his resignation for the purpose of taking a job in any other place.

9. This being the facts and circumstances, the charge memo issued by the first respondent bearing Ref.No.6-1-233/PASIC/ Estt/PF/1995/599 dated 16.06.2014 is quashed and the first respondent is directed to pay salary for 18 months, including arrears of pay and other consequential service benefits to the petitioner, within a period of 12 weeks from the date of receipt of a copy of this order.

10. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Svn

To

- 1.The Managing Director,
Puducherry Agro Service and Industries
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Puducherry - 605 009.
- 2.The General Manager (Micro Biology),
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RGN(CO)
A.SK(11/07/2022)