



W.P.(MD)No.15479 of 2016

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***BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT***

DATED: **20.09.2022**

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

**W.P.(MD)No.15479 of 2016**

**and**

**W.M.P.(MD)Nos. 11378 of 2016 & 9788 of 2017**

Jaganathan

... Petitioner

vs.

1. The Secretary to Government,  
Ministry of Culture,  
Government of India,  
Sasthri Bhawan, Room No.502, "C" Wing,  
New Delhi – 110 115.

2. The Director,  
South Zone Cultural Centre,  
Dakshini, Medical College Road,  
Thanjavur – 613 004.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of ***Writ of Certiorari***, to call for the records of the 2<sup>nd</sup> respondent passed in proceedings F.No.SZCC/1/33/08/2014-15/Admin (Part-II) dated 22.07.2016 and quash the same.



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For Petitioner : Mr.T.M.Madasamy  
For Respondents : Mr.V.Malaiyendran,  
Central Government standing Counsel

### **ORDER**

This Writ Petition has been filed to quash the impugned proceedings passed by 2<sup>nd</sup> respondent in F.No.SZCC/1/33/08/2014-15/Admin (Part-II) dated 22.07.2016.

2. The brief facts as stated in the affidavit are that the 2<sup>nd</sup> respondent is a unit of Central Government and was registered under the Tamil Nadu Societies Registration Act, 1975 (Tamil Nadu Act 27 of 1975) and is functioning from 31.01.1986. The petitioner has joined duty as an Office Assistant during the period March 1988. The petitioner's service was regularized from 01.08.1989 and time scale of pay Rs.750-12-870-15-945 was fixed. As per proceedings of the 2<sup>nd</sup> respondent, dated 22.06.1995, the petitioner was promoted as Junior Assistant from the post of Office Assistant. In the year 2004, the post of Junior Assistant was designated as Junior Programme Coordinator and the post of Assistant was



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designated as Senior Programme Coordinator. Thereafter, vide proceedings, dated 24.12.2008, the petitioner was reverted to the post of Office Assistant from the post of Junior Programme Coordinator since the petitioner has not fulfilled the conditions stipulated in the order, dated 22.06.1995. The petitioner had submitted his explanation stating that he is eligible for the promoted post. In the year 2008, the then Director had passed an order, dated 24.12.2008 for recovery of Rs. 75,097/-, stating that the petitioner was occupying the post wrongly and had drawn excess payment which was stated as audit objections, dated 25.09.2008.

3. Thereafter, the petitioner has submitted a representation to the Principal Accountant General (Civil Audit), Chennai, through proper channel. The petitioner's representation was considered and the amount recovered has been directed to be refunded, vide order, dated 27.07.2011. Thereafter, one Mr.E.N.Sajith, assumed office as Director on 24.01.2013.

4. The contention of the petitioner is that, after the said person assumed as a Director of the said Centre, there was totally mismanagement. The



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petitioner had submitted a representation to the 1<sup>st</sup> respondent to take action. The contention of the petitioner is that, later a dispute arose between the petitioner and some other rival group, namely, Mr.R.Veeramani Rajadurai.

5. The learned counsel appearing for the petitioner contended that the said Veeramani Rajadurai, has submitted a complaint against the petitioner and one Mr.Sekar, by misusing the name of one Mr.Senthil, vide letter dated 18.11.2014. Thereafter, an enquiry was conducted on 09.09.2015 and a show cause notice, dated 02.06.2016 was also issued. The petitioner has submitted his explanation, dated 28.06.2016. After explanation, the 2<sup>nd</sup> respondent has issued the impugned proceedings, dated 22.07.2016, whereby, the petitioner was directed to remit back the said amount. Aggrieved over the same, the present Writ Petition is filed.

6. While admitting the writ petition this Court has granted an interim order dated 13.04.2017 in W.M.P. (M)D No. 11378 of 2016. The respondents have filed a counter affidavit along with vacate stay petition in W.M.P.(MD) No. 9788 / 2107. In the counter the respondents have stated that the petitioner was



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granted promotion with the condition that within two years the petitioner should pass the District Office Manual and Account Test, however the petitioner has not passed the examination. There is no provision to relax the rule since an exemption was given only to the officials at the age of 53 years and attempted minimum five times to qualify the examination. The allegation against the Director is denied as false. The activities of the Centre increased manifold and direct payment to the artist through the bank account, transparency in selection of artists and stopping of payment of advance by cash are implemented to avoid malpractices.

7. It is further stated that the promotion of the said Veeramani Rajadurai from Record Clerk to Despatch Clerk was granted as per the Service Rules 2008. The allegations raised by the petitioner are false and misleading. On receipt of the online complaint to the Central Vigilance Commission, dated 18.11.2014, which was forwarded to South Zone Cultural Centre, vide letter, dated 12.03.2015. After verifying the records, the fact finding team from the Ministry of Culture, Government of India, the MOC vide No.F.29-1/2015-ZCC, dated 29.01.2016 advised that there is need for a detailed enquiry, relating to various allegations made by U.Senthil, Advocate and Member, Bar Council of



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Tamil Nadu in his complaint, dated 18.11.2014. After collection of the concerned records for detailed enquiry, the petitioner was reinstated back into service from suspension. The enquiry related to the financial irregularities committed by the petitioner in the CVC complaint, dated 18.11.2014 is in progress. Even, before the tenure of the present Director, a complaint was given against the petitioner by Secretary, Tamil Nadu Revenue Officials Association, against the petitioner's promotion and denied that the second respondent is instigating the complaint against the petitioner. The impugned order, dated 22.07.2016 was passed after scrutinizing the service records and after issuance of the show cause notice only. For which, a detailed enquiry is not mandatory. Therefore, the orders were passed as per the Service Rules and Reversional Order was passed on 22.07.2016 and the petitioner remained on leave and joined duty on 10.10.2016 in the reverted post of Junior Assistant and receiving salary and allowances in the reverted rank of Junior Assistant from 22.07.2016. Therefore, the respondent prays to dismiss the Writ Petition.

8. Heard Mr.T.M.Madasamy, learned counsel appearing for the petitioner and Mr.V.Malaiyendran, learned Central Government standing Counsel,



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appearing for the respondents. Perused the material documents available on record.

**9.** The primary issue that was raised before this Court that the petitioner was not qualified as per Service Rules, which was stipulated by the State of Tamil Nadu.

**10.** The learned counsel appearing for the petitioner submitted that, even though, the respondent is a Unit under the Ministry of Culture, Government of India, the State Government Rules are applicable only prior to 07.02.2009. The Central Service Rules are applicable to the respondents thereafter. As per the Central Government Rules, the petitioner is eligible to be promoted as Assistant. Since there was a discrepancy in the State Service Rules and Central Government Rules, the petitioner's promotion was reverted to the original post. Earlier, the petitioner was granted promotion and was reverted and the amount paid in the promoted post was also recovered. Subsequently, in reversional order, the recovery was set aside and the amount recovered was repaid. On compliance the same, proceeding was initiated and the petitioner was again reverted to the post of



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Assistant through the impugned order stating that the petitioner had not passed the required Departmental Test. There was an utter confusion in the respondents Department either to follow the Rules stipulated by the State of Tamil Nadu or Central Government. A specific plea raised by the respondents is that the exemption for conducting of the examination granted who have reached the age of 53 years and above and who has attempted five times to qualify the examination even could not succeed.

**11.** In the affidavit it is mentioned that the petitioner is aged about 50 years. Even according to the respondents the Service Rules grants exemption to persons who have attained 53 years. As on date the petitioner is more than 53 years. In such circumstances, this Court is of the considered opinion that the impugned order needs to be interfered with.

**12.** Accordingly, this Writ Petition is allowed. The impugned order, dated 22.07.2016, passed by 2<sup>nd</sup> respondent in F.No.SZCC/1/33/08/2014-15/Admin (Part-II), is hereby quashed. The respondents are directed to pay the entire monetary benefits to the petitioner



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which are applicable to him, within a period of six weeks from the date of receipt of a copy of the order. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No  
Internet : Yes  
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**[2/2]**

To

1. The Secretary to Government,  
Ministry of Culture,  
Government of India,  
Sasthri Bhawan, Room No.502, “C” Wing,  
New Delhi – 110 115.
2. The Director,  
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**S.SRIMATHY, J**

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***Order in***  
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***[2/2]***

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