



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2022

CORAM

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

W.P.(MD)No.6195 of 2016

P.Thangavelu

... Petitioner

vs.

1.The Chairman,
Tamil Nadu Water Supply and Drainage Board,
No. 31, Kamaraj Road, Chepauk,
Chennai- 5.

2.The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
No. 31, Kamaraj Road, Chepauk,
Chennai- 5.

3.The State of Tamilnadu
Rep by its Secretary,
Tamil Nadu Water Supply and Drainage Board,
No. 31, Kamaraj Road, Chepauk,
Chennai- 5.

... Respondents

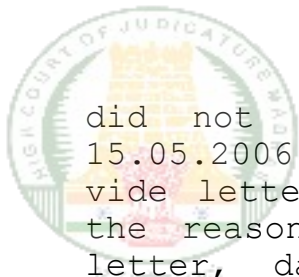
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order in Procs.No.34076/Esst.(DP)/A1/2014, dated 12.12.2015, on the file of the Respondent No.1 and to quash the same as illegal.

For Petitioner : Mr.G.Karthik
for Mr.T.Lajapathi Roy
For Respondents : Mr.R.Satheesh
Standing Counsel

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorari, to quash the impugned order in Procs.No.34076/Esst.(DP)/A1/2014, dated 12.12.2015, on the file of the Respondent No.1.

2. The petitioner was appointed as Assistant Engineer in the respondent department on 17.10.1984 and was declared probation. During the probation period, in the month of September 1985, the petitioner's father fell sick and the petitioner was constrained to take leave for 10 days. Thereafter, the petitioner extended the leave for 19 days. After the completion of 29 days, the petitioner approached the respondents to allow him to join duty. Since the probation was not declared the respondents did not allow the petitioner to join duty from 1985 to 2006. Thereafter the petitioner



did not approach the respondents, but suddenly, woke up on 15.05.2006 and submitted a representation and the third respondent, vide letter, dated 30.12.2006, directed the petitioner to set out the reasons for his absence. The petitioner replied through a letter, dated 30.12.2006. On 27.11.2010, again the petitioner submitted a representation. Based on the representation, the petitioner filed a Writ Petition in W.P.(MD)No.3651 of 2011, seeking to consider the representation, dated 27.11.2010. This Court rightly dismissed the Writ Petition. The petitioner preferred an appeal in W.A.(MD)No.1050 of 2011 and this Court, vide order, dated 04.12.2013 has held as under:

"However, we also took note of the fact that in this case, the petitioner stated that he has not been removed from service as Assistant Engineer so far and therefore, he has made a request for reconsidering his claim for reinstatement and on that plea, there is a respondent herein to consider such a claim and deal with the matter in accordance with law as he may choose to do."

3. Thereafter, on 27.02.2014, the second respondent issued a charge memo and appointed an Enquiry Officer and the charges were held proved. The second issued show cause notice, dated 25.07.2014 and finally on 05.09.2014, the respondents passed a final order and rejected the claim of the petitioner. On 07.04.2014, the petitioner submitted a representation to provide subsistence allowance to the petitioner. The petitioner filed an appeal to the Principal Secretary of Municipal Administration and Water Supply, wherein, the petitioner was directed to file an appeal to the Chairman of the Board. On 19.02.2015, the petitioner filed an appeal to the first respondent and again filed a Writ Petition in W.P.(MD)No.13432 of 2015, to direct the respondents to consider the appeal and this Court directed the respondents to dispose the appeal within three months. On 12.12.2015, the first respondent has passed the impugned order and rejected the petitioner's appeal. Aggrieved over the impugned order, the present Writ Petition is filed.

4. The respondents have filed a counter affidavit stating that as per the BP.Ms.No.438, dated 24.09.1984, the petitioner was appointed as Assistant Engineer and he has served for a period of 8 months 15 days. From 01.07.1985 onwards, his whereabouts were not known. Before completion of one year, the petitioner has unauthorizedly absented and hence his service was not regularized. As per BP.Ms.No.438, with reference to regulation, the Assistant Engineer has to undergo probation period for 2 years, with continuous period of 3 years. The service register was not opened and GPF Number was not allotted to the petitioner. He has completed service below 9 months and absconded from service. Therefore, his claim cannot be considered.



5.Heard Mr.G.Karthik, learned Counsel appearing for the petitioner and Mr.R.Satheesh, learned Standing Counsel appearing for the respondents and perused the materials on record.

6.In the impugned order, the Chairman has passed a detailed order, narrating the provisions that are applicable and also about the enquiry conducted against the petitioner. The first respondent has stated that there is no satisfactory explanation for the long absence for 28 years and he has not approached the Court previously. This Court directed the petitioner to explain, how he could maintain his family without a job and he replied he was supported by his father-in-law. The first respondent has also recorded his lack of interest in the job and has rejected the appeal filed by the petitioner.

7. On perusing the order and the records placed before this Court, absolutely there is no ground to interfere in the impugned order. The petitioner did not explain his 28 years long absence and did not put any efforts. As rightly pointed out by the first respondent, the petitioner is not interested to take up the job and he has moved off without any efforts. Moreover, the petitioner has attained superannuation.

8.Therefore, this Court is not inclined to interfere in the impugned order and the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

TO

1.The Chairman,
Tamil Nadu Water Supply and Drainage Board,
No. 31, Kamaraj Road, Chepauk,
Chennai- 5.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Managing Director,
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3.The Secretary,
The State of Tamilnadu
Tamil Nadu Water Supply and Drainage Board,
No. 31, Kamaraj Road, Chepauk,
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+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-4575[F]
dated 07/02/2022)

W.P. (MD)No.6195 of 2016
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tp(CO)
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