



WEB COPY



WP.No.16140 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P. No.16140 of 2013

K.Bakthavatchalam

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Petitioner

Vs

1. Government of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Higher Education Department,
Fort St.George,
Chennai – 600 009.

2. Science City
Department of Higher Education,
Rep. by its Vice Chairperson,
Gandhimandapam Road,
Planetarium Campus,
Chennai – 600 025.

....

Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the concerned records from the 2nd respondent, quash the order of the 2nd respondent bearing Proceedings No.266 dated 29.07.2011 and the proceedings of the 2nd respondent bearing No.46/estt./Science City dated 31.05.2013 and consequently direct the respondents to restore the petitioner in the post of Junior Assistant with all monetary and consequential benefits.



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For Petitioner : Mr.Balan Haridas
For Respondents : Mr.V.Veluchamy
Additional Government Pleader

ORDER

This Writ Petition has been filed as against the order passed by the second respondent, thereby reverted the petitioner from the post of Junior Assistant to the post of Daffedar and also ordered to recovery of the salary which was received by the petitioner in the post of Junior Assistant.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

3. The petitioner was working in the second respondent Science City from the year 2001 and his service was regularised as Daffedar on 28.09.2006. While being so, the second respondent constituted a Selection committee consisting of the Vice Chairman and two other distinguished members and appraised his performance and recorded minutes on 04.07.2008. They also recommended to promote the petitioner as Assistant subject to the approval of the Chairman of the



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second respondent. The Chairman of the second respondent approved the minutes to promote the petitioner as Assistant.

4. On the said recommendation, the petitioner was issued with an order of promotion dated 28.07.2008 to the post of Assistant in the pay scale of Rs.4000-100-6000. However, it was not approved by the Government, since the Account General of Audit Committee has objected the promotion as there was no post of Assistant sanctioned to Science City. That apart, at the time of promotion, the petitioner had submitted a letter of undertaking in a stamped paper stating that if the Government does not approve his promotion to the post of Assistant, the petitioner may be reverted back to the present post of Daffedar and he had further undertaken to repay the amount paid pursuant to the promotion.

5. The learned counsel for the petitioner would submit that the order of reversion or objection raised by the Account General of Audit Committee has not been served to the petitioner and he was not given an opportunity before passing the order of reversion. Further, he relied upon the Judgment reported in **(2015) 4 SCC 334** in the case of ***State of Punjab and others Vs. Rafiz Masih (White Washer) and others***, in



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which the Hon'ble Supreme Court of India held that it would be impermissible in law to recover from the employees belonging to Class III and Class IV service (Group C and Group D service). Therefore, no recovery is permissible from the petitioner.

6. The learned Additional Government Pleader appearing for the respondents would submit that as per the undertaking given by the petitioner, he was reverted to the post of Daffedar and recovery was also ordered. Now, the petitioner is continuously authorised absent and as such, he was removed from service.

7. In view of the above, the writ petition lacks merits and is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs.

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Index:Yes/No
Internet:Yes/No
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To



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Fort St.George,
Chennai – 600 009.

2. The Vice Chairperson
Science City,
Department of Higher Education,
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G.K.ILANTHIRAIYAN,J.



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