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W.P.No.4327 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No.4327 of 2021

and

W.M.P.Nos.4911 & 4912 of 2021

K.Kannan

... Petitioner

Vs.

1.The Chairman-ATMA/District Collector,
Cuddalore District.

2.The Director of Agriculture,
Chepauk, Chennai – 600 005.

3.The Project Director/Joint Director of Agriculture,
SSEPERs-ATMA,
Cuddalore District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned order made in No.D2/7914/2020 dated 26.09.2020 passed by the first respondent and quash the same insofar as the petitioner is concerned, and consequently, direct the respondents to reinstate the petitioner as Assistant Technology Manager in Cuddalore Block, under Agricultural Technology Management Agency, Cuddalore District, with all monetary and other benefits with continuity of service.



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For Petitioner : Ms.S.Sathia Chandran

For Respondents : Mr.G.Nanmaran,
Special Government Pleader

ORDER

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

2. The petitioner was working as temporary contractual employee under ATMA Scheme. By the impugned order dated 26.09.2020 issued by the District Collector, Cuddalore, he was terminated from service. Challenging the same, this Writ Petition has been filed.

3. During the course of hearing, the learned counsel for the petitioner placed a copy of the order in W.P.(MD)No.13365 of 2020 of the Madurai Bench of Madras High Court.

4. In the identical circumstances, the Madurai Bench of Madras High Court considered the issue and passed orders, as extracted hereunder:

“7. The basic facts are not in dispute. The petitioner was appointed as scheme employee on 30.03.2012 by the District Collector, Trichy who also is the ex-officio chairman of ATMA



Scheme in charge of implementation of ATMA Scheme. The earlier termination order was also issued by the District Collector, Trichy.

The impugned order reads that the petitioner's termination was pursuant to the communication received from the Director of Agriculture, Chepauk, Chennai. A copy of the communication dated 01.09.2020 issued by the Director of Agriculture has been enclosed. The said communication reads as follows:

“As you are aware that, some ineligible persons have enrolled and got benefited under the Prime Minister Kisan Samman Nidhi (PM-Kisan) Scheme. In this regard, you have been requested to form a team for verification of eligibility of beneficiary with officials of Department of Agriculture and Revenue. As per reference 4th cited, it has been observed that contractual staff appointed under various schemes are involved in the fraudulent activity. The details of the contractual staff reported to be involved in the fraudulent activity in your district are furnished below. In this regard, as per the operational guidelines of respective schemes, I request you to disengage/terminate their services for their involvement in fraudulent activity.”

8. The specific stand of the petitioner is that he is not responsible for updating or uploading the details of the beneficiary in the relevant web portal. Therefore, if any fraud has been committed, he is not responsible for the same. The defence of the petitioner may be well-founded or ill-founded. For a moment, I am not on that. The



petitioner has been charged with involvement in fraudulent activity.

It definitely casts stigma on the petitioner. When a Governmental authority casts stigma on a person, it cannot be done without complying with the elementary principles of natural justice. Since the petitioner is only a scheme employee, there may not be any need for conducting any elaborate domestic enquiry or departmental enquiry as done in the case of regular Governmental employee. But then, there must be observance with the principles of natural justice at a minimum level. Even this has not been done in this case. It is for this reason I constrained to interfere. The order impugned in the writ petition is accordingly set aside.

9. Considering the fact that the petitioner was only a scheme employee, the question of paying backwages does not arise. The learned counsel appearing for the petitioner draws my attention to the decision of the Hon'ble Supreme Court reported in (2009) 6 SCC 611 (Mohd.Abdul Kadir Vs. Director General of Police, Assam). It has been held that when the ad hoc appointment is under a scheme and is in accordance with the selection process prescribed by the scheme, there is no reason why those appointed under the scheme should not be continued as long as the scheme continues.

10. If ATMA Scheme is still in force, the petitioner shall be issued with an order of appointment permitting him to reappoint. Such an order will be issued by the second respondent within a period of five weeks from the date of receipt of a copy of this order.”



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5.

It is also brought to the notice of the Court that the several writ petitions are allowed in favour of the petitioners.

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6. Learned counsel appearing on either side submit that the petitioner in this writ petition is also similarly placed person like the petitioner in the writ petition disposed of in Madurai Bench of Madras High Court.

7. In view of the above, this Writ Petition is allowed, with the following directions:

(i) The respondents are directed to issue order of appointment permitting him to re-appoint if, ATMA Scheme is still in force.

(ii) The respondents shall issue the order of re-appointment to the petitioner, within a period of four weeks from the date of receipt of copy of this order.

8. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

26.06.2023

Index :Yes/No

Neutral Citation :Yes/No

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BATTU DEVANAND, J.

AT

To

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