



W.P.No.9917 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.07.2023

PRONOUNCED ON : 19.10.2023

CORAM :

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

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A.B.Damodharan

: Petitioner

-VS-

- 1.The Revenue Divisional Officer,
Cheyyar-604407,
Thiruvannamalai District.
- 2.The District Revenue Officer,
Thiruvannamalai District,
Thiruvannamalai.
- 3.The Chief Secretary/
Commissioner of Revenue Administration,
Ezhilagam, Chennai-5.
- 4.The Government of Tamil Nadu,
Rep. by the Secretary to Government
Revenue Department,
Chepauk, Chennai-9.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order dated 09.01.2009 passed by the second respondent in



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his office Letter No.A4/26765/2008 and the order dated 28.01.2010 passed by the third respondent in his office Ref: Na.Ka.No.Pani.5(3)/25531/2009 (signed on 01.02.2010), quash the same and direct the respondents to treat the period from 26.10.2005 to 30.10.2008 as duty period and pay the arrears of salary, allowances and attendant benefits within the time that may be fixed by this Court.

For Petitioner : Mr.P.Mani

For Respondents : Mr.M.Muthusamy
Government Advocate

ORDER

The petitioner has filed this writ petition for issuance of a writ of Certiorarified Mandamus, to quash the order passed by the second respondent as confirmed by the third respondent and consequently, to direct the respondents to settle the service benefits.

2. The service matrix of the petitioner that are required for determination in this case are as under:

2.1. The petitioner was serving as a Village Administrative Officer, Cheyyar Division, Thiruvannamalai District and retired from service on 31.10.2008.



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2.2. For the allegation that, A1 had joined service as Village Administrative Officer by producing bogus certificate (SSLC) with regard to his educational qualification and after identifying the bogus SSLC mark sheet, the petitioner was served with charge memo under Rule 17(b) of Tamil Nadu Civil Service (Discipline and Appeal) Rules by the first respondent in his Ref. No.A3/7646/2005 dated 29.10.2005.

2.3. After hearing the submissions and on perusal of the counter affidavit and the arguments of the learned Government Advocate, disciplinary action has been taken against the petitioner which culminated into removal from service and there was a criminal prosecution against the petitioner. It has ended in acquittal. Thereafter, he was reinstated into service on 31.10.2008 and retired on the very same day. His regularization of service and back wages have been denied and hence, the writ petition.

3. The enquiry report reveals that the petitioner has produced his SSLC mark sheet for having passed examination in March 1984 with Reg.No.482379 and Certificate No.818068 at the time of his appointment.



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According to this, the individual had scored 55/100 in English, 48/100 in Maths and 56/100 in Science. When the mark sheet was referred to Secretary, State School Examinations Board, the Secretary had replied in the reference 02706/V2-2/05, dated 27.09.2005 stating that the petitioner had obtained 27/100 in English, 40/100 in Maths and 56/100 in Science and further, declared that the mark sheet produced by him is a bogus one.

4. The learned counsel for the petitioner submitted that the petitioner did not produce the English mark sheet for examinations held in October 1984. The petitioner never wrote October 1984 examination. He had produced the mark sheet alone in March 1984, in which, English mark was manipulated as declared as bogus by Education Department.

5. It is seen from the report that the petitioner was placed under suspension from 26.10.2005, disciplinary action was initiated under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and after due process, the petitioner was removed from service on 03.06.2006. The prime charge is that he produced the English mark sheet for the examination held in the year 1984 which is found to be bogus by the



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Education Department.

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6. At this juncture, it remains to be stated that criminal prosecution was initiated against the petitioner in C.C.No.5 of 2007 before the learned Judicial Magistrate Court 2, Cheyyar. The learned Magistrate has acquitted the petitioner on the ground that the bogus certificate was not subjected to chemical examination and there may be some mistake in the computer program and giving benefit of doubt, the petitioner was acquitted and thereafter, he moved the application and he was reinstated into service. The appeal of the petitioner against removal of service was heard by the second respondent. Taking into consideration the order of acquittal passed by the criminal Court, the same was set aside on 30.10.2008 and given posting as Village Administrative Officer and that the petitioner was permitted to join duty on 31.10.2008 and retired on the same day.

7. Thereafter, the petitioner made a representation that the break period from the date of suspension on 26.10.2005 upto the date of joining on 30.10.2008 was regularised as leave on loss of pay as there was no



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specific direction from the learned Judicial Magistrate and accordingly, the representation was rejected and the appeal is also rejected.

8. No doubt, the criminal Court has acquitted him because of lack of evidence and procedural lapse. The representation made by the petitioner for regularization of the service from the date of suspension to the date of joining was rejected since in the reinstatement order, it is stated that the regularization of the break period was as leave on loss of pay.

9. To summarize, the petitioner has joined in the service on 22.12.1988; suspension on 26.10.2005; removal from service on 03.06.2006; date of judgment on 23.06.2008; date of reinstatement order on 30.10.2008; and joined and retired on 31.10.2008. It is seen from the orders of the second respondent that the petitioner was appointed as a Village Administrative Officer under 10(a)(i) on 22.12.1988. Since there was a doubt entertained as to the genuineness of the mark sheet, his probation was not declared and the certificate was referred to District Educational Officer and the same was found to be bogus. For the said petitioner, Village



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Administrative Officer post, the probation was not declared and the period between the date of suspension and the date of reinstatement was ordered to be leave on loss of pay. Since the probation was not declared, various contentions raised by the petitioner fall to ground.

10. Accordingly, this Writ Petition stands dismissed. No costs.

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Index: Yes / No
Internet: Yes / No
NCC : Yes/No
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To

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RMT. TEEKAA RAMAN, J.

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Pre-Delivery Order made in
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