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W.A. No.2792 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2023

CORAM

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**W.A. No.2792 of 2023
and
C.M.P. No.23380 of 2023**

- 1.The State of Tamil Nadu
Rep. by the Secretary,
Public Works Department,
Fort St.George, Chennai-9.
- 2.The Principal Chief Engineer (General) and
Engineer-in-Chief, WRO,
Chepauk, Chennai-600 005.
- 3.The Executive Engineer, WRO/PWD,
Public Works Department,
Pennai River Basin Division,
Dharmapuri.
- 4.The Assistant Engineer, WRO/PWD,
Public Works Department,
Irrigation Section,
Dharmapuri- 636 705.

.. Appellants/ Respondents

Vs.

P.Palani
S/o. Perumal

..Respondent/ Petitioner



W.A. No.2792 of 2023

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying to set aside the order of this Court dated 28.07.2022 made in W.P. No.15319 of 2018.

For Appellant : Mr.Haja Nazurudeen
Additional Advocate General
Assisted by Mrs.S.Anitha
Special Government Pleader

For Respondent : Mrs.S.Esai Rani Narasimhan

JUDGMENT

(Judgment of the Court was made by Mohammed Shaffiq, J.)

The present writ appeal is filed challenging the order of the learned Judge insofar as it sets aside the order dated 28.03.2018 passed by the fourth appellant, whereby the respondent herein was terminated from service as daily wager on the premise that he had furnished bogus educational certificate, while directing the appellants to reinstate him into service and leaving it open to the appellants herein to take appropriate disciplinary action and to impose any punishment other than dismissal from service against him for furnishing bogus certificate.



2. The brief facts as recorded by the learned Judge in the order impugned

herein are as follows :

2.1. The Respondent herein had been working as a NMR worker in Upper River Basin Channel under the control of the WRO / PWD from 1995 onwards. He had been working as Irrigation Assistant and discharging his duties continuously with regular break. His services were regularized in terms of G.O.Ms.No.134, Public Works Department dated 07.05.2010.

2.2. It is stated that after eight years of his regularization, the Appellants by order dated 28.03.2018 suddenly dispensed with the services of the Respondent herein on the ground that the educational qualification certificate furnished by the Respondent herein of having passed 8th Standard, was a bogus one, inasmuch as he had passed only 5th Standard in the school. The services of the Respondent herein was thus terminated with effect from 28.03.2018.

2.3. The above order was challenged by the respondent by way of writ petition on the premise that the writ petitioner was working from 1995 onwards and had rendered more than 23 years of services and the essential qualification for absorption as Irrigation Assistant was only a pass in the 5th Standard and the Respondent herein has a 6th Standard certificate and thus, the bogus certificate which does not have a material bearing on the qualification, cannot result in termination of his services. Reliance was placed on G.O.Ms.No.134 Public



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Works (C2) Department dated 07.05.2010, which provided a policy decision for regularization of services of the candidates, who had completed more than 10 years of service, pursuant to an announcement made in the floor of the house by the concerned Minister. The said G.O. also provided for relaxation of various rules including Rule 6(1)(a) and Rule 10A of the Tamil Nadu State and Subordinate Service Rules, which prescribe the educational qualification.

2.4. The impugned order was passed terminating the services of the Respondent herein on the premise that he had furnished bogus electoral certificate. In the above background, the question that arises for consideration is, as to whether the impugned order of termination of services of the respondent for having provided false certificate in relation to his educational qualification, can be sustained. It was submitted by the learned counsel for the Respondent that assuming that the writ petitioner had furnished a bogus certificate of having passed 8th Standard, with the issuance of the G.O. relaxing the said qualification, the above aspect loses its relevance. Further, pursuant to the above G.O., a list of temporarily engaged employees, was released including the name of the Respondent herein along with his date of birth and other particulars including communal category, date of joining in service and completion of 10 years of service. The Respondent had completed 10 years of service on 31.12.2006 and his service was regularised. The order of



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termination without any notice was challenged as being made in disregard to

G.O.Ms.No.134, dated 07.05.2020 and in violation of the principles of natural justice.

3. On consideration of above aspects, the order of termination was set aside by the learned Judge on the finding that in G.O.Ms.No.134, the rules have been relaxed including the rule prescribing educational qualification. It was further found that the Government had regularized more than 740 candidates on the basis of the above G.O. conscious of the fact that they may not satisfy the educational qualification originally prescribed in view of the relaxation in terms of said G.O. It was thus found by the learned Judge that the mere fact that the writ petitioner had not passed 8th Standard, cannot be a reason for disengaging / terminating his services. Having found so, the learned Judge, while setting aside the order of termination, has granted liberty to the department to take disciplinary action for providing bogus certificate, after reinstating the writ petitioner into service. The said order is under challenge by the State.

4. The learned Additional Advocate General appearing for the appellants would fairly submit that the respondent herein may be extended the benefit of G.O.Ms.No.134 and he may be reinstated into service with effect from



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28.03.2018 i.e., the date on which he was terminated from service for furnishing bogus educational certificate inasmuch as similarly placed workers/ employees had been extended the benefit of the said G.O. However, the learned Additional Advocate General would submit that for the period from 23.08.2018 i.e., date of termination until being reinstated, the Respondent herein is not entitled to claim the benefit of salary, but could be extended the benefit of continuity of service for the said period.

5. On the above submissions, the learned counsel appearing for the writ Respondent / writ petitioner would submit that the order of the learned Judge provided only for reinstatement, without salary from the date of disengagement, but the same shall be treated as continuity of service for terminal / other benefits.

6. In view of the submissions made by the learned counsel on either side, the order of the learned Judge is modified to that effect. Accordingly, we intend to reiterate that the respondent is not entitled for salary from the date of disengagement till the date of reinstatement, however, the same shall be treated as continuity of service for terminal/ other benefits.



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7. With the above observations, this Writ Appeal stands disposed of. No

costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]
10.11.2023

Speaking (or) Non Speaking Order

Index: Yes/No

Neutral Citation: Yes/No

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To

- 1.The Secretary,
Public Works Department,
Fort St.George, Chennai-9.
- 2.The Principal Chief Engineer (General) and
Engineer-in-Chief, WRO,
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