



W.P.No.17850 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.17850 of 2023
and
W.M.P.No.16971 of 2023

Jayakumar

...Petitioner

Vs

1.The District Collector,
Dharmapuri District,
Dharmapuri.

2.The Revenue Divisional Officer,
Office of Revenue Divisional Office,
Dharmapuri.

3.The Block Development Officer,
Karimangalam Panchayat Union,
Karimangalam Taluk,
Dharmapuri District.

4.The President,
Mottalur Village Panchayat,
Karimangalam Panchayat Union,
Dharmapuri District.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 4th respondent made in Na.Ka.No.01/2023/Mottalur dated 02.06.2023 and quash the same and direct the respondents to reinstate the petitioner in service with all service and monetary benefits.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.M.Bindran,
Additional Government Pleader
for R1 and R2

Mr.C.Selvaraj,
Additional Government Pleader
for R3 and R4

ORDER

On the strength of Community Certificate, certifying the petitioner belongs to SC Community, he was appointed as Secretary of the Panchayat, Mottalur Panchayat, in Karimangalam of Dhsarmaputi District, on 06.03.2019.



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2.It is alleged that there were complaints against the petitioner questioning his Community Certificate. Pursuant to which, the Revenue Divisional Officer has conducted an enquiry. The petitioner had participated in the enquiry and thereafter, on 03.04.2023, his Community Certificate was cancelled. On the strength of the cancellation of the Community Certificate, the 4th respondent herein had issued the impugned order, dated 02.06.2023, removing the petitioner from service.

3.The learned counsel appearing for the petitioner submitted that though he had not participated in the enquiry before the Revenue Divisional Officer, he was not aware of the final orders passed by the Revenue Divisional Officer cancelling his Community Certificate and that only through the impugned order of punishment, he was appraised of the final order of the Revenue Divisional Officer. He further stated that prior to the punishment, he was neither given any show cause notice nor was any enquiry conducted.

4.Per contra, the learned Additional Government Pleader appearing for the 1st and 2nd respondents submitted that on the strength of



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complaints of the Villagers, a proper enquiry was conducted, in which the petitioner has also participated and thereafter, his Community Certificate was cancelled. The cancellation was also duly intimated to the 4th respondent herein.

5.The learned Additional Government Pleader appearing for the 3rd and 4th respondents submitted that in view of the communication from the Collector about the cancellation of the petitioner's Community Certificate, they had passed the impugned order of punishment. He further submitted that the appointment itself was on the basis of reservation to the SC candidates and therefore, the petitioner cannot continue in the said post.

6.The impugned order of punishment, removing the petitioner from service, does not refer to any opportunity prior to passing of the order. In service jurisprudence when a major penalty is sought to be imposed on a regular employee, the principles of natural justice requires to be adhered to.



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7.This apart, the petitioner also claims that he was not aware of the final orders passed by the Revenue Divisional Officer. A perusal of the Revenue Divisional Officer's order dated 03.04.2023 would reveal that the order has been signed only on 02.09.2023 though it is dated 03.04.2023. Thus, the petitioner's claim that he was unaware of the final orders of the Revenue Divisional Officer stands substantiated. Consequently, this may have deprived of him challenging the Revenue Divisional Officer's order before the Appellate Authority also, which has resulted in unduly imposing a punishment for an act, which has not been brought to his notice.

8.Above all, the requirement of following the procedure before imposing the major penalty has been disregarded by the respondents. While that being so, the order itself requires to be interfered with. However, if the 4th respondent is given an opportunity to follow the procedure before taking any final action, if they so desire, the ends of justice could be secured.



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9. Accordingly, the impugned order dated 02.06.2023 is hereby quashed. Consequently, the 4th respondent is granted liberty to follow the procedure contemplated for imposing a major penalty and then pass final orders. While adopting such a procedure, the 4th respondent shall ensure that the petitioner is extended due opportunity of hearing.

Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

19.10.2023

Index: Yes/No
Neutral Citation: Yes/No
Speaking order/Non-speaking order
mps

To

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2. The Revenue Divisional Officer,
Office of Revenue Divisional Office,
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M.S. RAMESH,J.

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