



WEB COPY



W.P.No.20040 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.20040 of 2023
and W.M.P.No.19390 of 2023

K.Kumaresan

... Petitioner

Versus

1.The Commissioner of Police
Handloom/Revisional Authority
Kuralagam, Chennai

2.The Managing Director
Murugam Silks Handloom Weavers
Co-operative Production and Sale Society Ltd
Kancheepuram

3.R.Tamilarasi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the first respondent in Na.Ka.No.13134/2021/H1 dated 16.08.2022 and confirming the order passed by the 2nd respondent dated 04.03.2021 and quash the same and consequently direct the 2nd respondent to reinstate the petitioner with all monetary and service benefits including the back wages.

For Petitioner

: Mr.L.P.Shanmugasundaram

For Respondents

: Mr.S.Arumugham for R1

Government Advocate

Mr.S.Yashwanth for R2

Additional Government Pleader



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ORDER

This writ petition has been filed challenging the punishment of removal of petitioner from service.

2. It is relevant to note that no charge memo whatsoever is issued against the petitioner and the petitioner has been removed from service on the ground that he did not possess the requisite qualification in Computer Degree. The petitioner was appointed on the basis of recruitment notification dated 25.02.2016 and he was appointed on 06.08.2016 and he was working for more than 4 1/5 years as a Computer Operator. However, by impugned order, the petitioner has been removed from service stating that he did not possess the requisite qualification in Computer Degree. On revision, the Revisional Authority also passed the order confirming the disciplinary authority removing the petitioner from service mainly on the ground that the communication sent by the Institution, where, the petitioner said to have been acquired the diploma in computer and the reply sent by the institution indicate that the petitioner, in fact, undergone the course. Despite the certificate issued by the Institution, it is stated in the reply that the petitioner did not appear in the Government Examination. The said reply has been put against the petitioner by the Revisional Authority.



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3. Though the counter has been filed defending the action of the respondents, this Court is of the view that when the petitioner has been enforced with the major punishment of removal, such action should have been passed based on the proper domestic enquiry. On perusal of the entire materials, this Court finds that not even a charge memo is issued and no enquiry officer is appointed. Therefore, without issuing any charge memo or conducting enquiry, displacing the person from the permanent post is against the fundamental jurisprudence of domestic enquiry. If the petitioner is given proper opportunity and enquiry, he would have been at a better position to show that the computer qualification was acquired from the Institution is also well within the parameters.

4. It is further to be noted in the recruitment notification, it is not specifically stated that the computer qualification should be acquired only from the Government Institutions. Such being the position, now, the respondent cannot take a stand other than the notification. Be that as it may, when the principle of natural justice is totally violated in this cases, the Order of disciplinary authority and the revisional authority imposing the major



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punishment of removal from service cannot be sustained in the eye of law.

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5. Accordingly, imposing of punishment of dismissal of the service stands quashed and the respondents are directed to reinstate the petitioner immediately and liberty is granted to the respondents to proceed further by following the proper procedure and conduct disciplinary proceedings.

6. With the above, this writ petition stands allowed. Consequently, connected miscellaneous petition is closed.

08.09.2023

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Internet: Yes/No

Index : Yes/No

Neutral Citation : Yes/No



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To

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N. SATHISH KUMAR, J.



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