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W.P.(MD)NO.8360 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8360 of 2023 and
W.M.P(MD)No.7701 of 2023

M.Dhanam

... Petitioner

Vs.

1. The District Collector,
Madurai District, Madurai.
2. The Personal Assistant (Development) to the Collector,
Madurai District Collectorate Buildings,
Madurai District, Madurai – 625 020.
3. The Block Development Officer,
Usilampatti, Madurai District.
4. The President,
Vagurani Village, Usilampatti Taluk,
Usilampatti,
Madurai District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned suspension order in Na.Ka.No.4923/2015/U.Va.-8 dated 27.12.2022 passed by the 2nd respondent and quash the same.



For Petitioner : Mr.K.K.Kannan
For R-1 & R-2 : Mr.T.Villavankothai,
Additional Government Pleader.
For R-3 & R-4 : Mr.G.Sivaraja,
Government Advocate.

* * *

ORDER

Heard the learned counsel on either side.

2. The petitioner is working as Panchayat Secretary. He was directed by the second respondent to produce the original educational certificate. Though the petitioner appeared before the second respondent, he failed to produce the certificate. Since the directive of the first respondent was not honoured, the impugned proceedings came to be issued suspending the petitioner from service.

3. Challenging the same, this writ petition came to be filed.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition



and called upon this Court to set aside the impugned order and grant relief as prayed for.

5. The first respondent has filed counter affidavit and the learned Additional Government Pleader took me through its contents.

6. The stand of the respondents is that the petitioner who worked as Panchayat Secretary had to possess certain minimum educational qualification. According to the respondents, the petitioner had produced bogus certificates and managed to enter service and that is why the impugned order came to be passed. He prays for dismissal of the writ petition.

7. The stand of the respondents is that the petitioner had fraudulently suppressed the fact that he is not possessing the requisite qualification.

8. I carefully considered the rival contentions and went through the materials on record.



9. No doubt the employer is authorised to suspend the employee as per Rule 17 of G.O.(Ms)No.72 Rural Development and Panchayat Raj (E5) Department dated 09.07.2013. Rule 17 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, reads as follows:-

17. Suspension. - (1) The appointing authority may place a person holding the post under suspension, if it is necessary in public interest, where, -

(i) an inquiry into grave charges against him/her is contemplated or is pending; or

(ii) a complaint against him/her of any criminal offence is under investigation or trial.

(2) A person holding the post who is detained in custody whether on a criminal charge or otherwise, for a period longer than 48 hours shall be deemed to have been suspended under this rule.

(3) Review on extension of suspension of the persons holding the post shall be done by the Personal Assistant (Development) to Collector for every quarter.



(4) During the period of suspension, a person

holding the post is eligible for subsistence allowance of 50% of the last pay and allowances drawn.

10. In the case on hand, the impugned proceeding does not indicate that the enquiry into grave charges is proposed or pending. No criminal case is pending. In these circumstances, the question of suspending the petitioner does not arise. It is true that an unqualified person cannot function as Panchayat Secretary. The fact remains that the petitioner has been serving in the said post for more than 25 years. The stand of the petitioner is that he is qualified and that the original mark sheet is missing. Since the requirements as per Rule 17 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules are not fulfilled in this case, the order impugned in this writ petition is set aside. The petitioner shall be reinstated without prejudice to the power of respondents 1 and 2 to take action as per law. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

02.06.2023

NCS : Yes / No
Index : Yes / No



Internet : Yes / No
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7

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G.R.SWAMINATHAN,J.

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8

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