



W.P(MD)No.13377 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13377 of 2020

and

W.M.P.(MD)Nos.11161 & 11163 of 2020

V.Dinesh Kumar

... Petitioner

Vs.

- 1.The Director of Agriculture,
Directorate of Agriculture,
Chepauk,
Chennai-600 005.
- 2.The Chairman-ATMA/District Collector,
Trichy,
Trichy District.
- 3.The Project Director / Joint Director of Agriculture,
O/o.the Assistant Director of Agriculture,
Trichy,
Trichy District.
- 4.The Assistant Director of Agriculture,
O/o.the Assistant Directorate of Agriculture,
Pullambadi,
Trichy District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorarified Mandamus, to call for the



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records relating to the impugned termination order passed by the second respondent in his proceedings in கடித எண்.ATMA/16/2020, dated 11.09.2020 and quash the same as illegal and consequently to direct the respondents to reinstate the petitioner as Block Technology Manager, Pullambadi Block, Trichy District within a period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

2. The petitioner was working as temporary contractual employee under ATMA Scheme. By the impugned order dated 11.09.2020 issued by the District Collector, Trichy, he was terminated from service. Challenging the same, this Writ Petition has been filed.

3. The learned counsel appearing for the petitioner reiterated all the averments 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.



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4. The respondents have filed the counter affidavit and the learned Special Government Pleader took me through its contents. The primary contention of the learned Special Government Pleader is that by the impugned order, apart from the petitioner, one T.Karthika was also terminated. The said Karthika filed W.P.(MD)No.15269 of 2020. Vide order dated 02.02.2023, a learned Judge of this Court had dismissed the writ petition. According to the learned Special Government Pleader, the petitioner's case being on the same footing also deserves to be dismissed. He also emphasized the fact that the petitioner was only a temporary contractual employee that too employed in connection with a scheme and therefore, he will not have any substantive right as such.

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

6. I called upon the learned Special Government Pleader to furnish me with a copy of the order dated 02.02.2023 dismissing W.P.(MD)No.15269 of 2020. The learned Special Government Pleader submitted that the order copy is yet to be uploaded and therefore, he is not in a position to produce the same.



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7. The basic facts are not in dispute. The petitioner was appointed as scheme employee on 31.05.2012 by the District Collector, Trichy who also is the ex-officio chairman of ATMA Scheme in charge of implementation of ATMA Scheme. The earlier termination order was also issued by the District Collector, Trichy. The impugned order reads that the petitioner's termination was pursuant to the communication received from the Director of Agriculture, Chepauk, Chennai. A copy of the communication dated 01.09.2020 issued by the Director of Agriculture has been enclosed. The said communication reads as follows:-

“As you are aware that, some ineligible persons have enrolled and got benefited under the Prime Minister Kisan Samman Nidhi (PM-Kisan) Scheme. In this regard, you have been requested to form a team for verification of eligibility of beneficiary with officials of Department of Agriculture and Revenue. As per reference 4th cited, it has been observed that contractual staff appointed under various schemes are involved in the fraudulent activity. The details of the contractual staff reported to be involved in the fraudulent activity in your district are furnished below. In this regard, as per the operational guidelines of respective schemes, I request you to disengage/terminate their services for their involvement in fraudulent activity.”

8. The specific stand of the petitioner is that he is not responsible for updating or uploading the details of the beneficiary in the relevant web portal. Therefore, if any fraud has been committed, he is not responsible for the same. The defence of the petitioner may be well-founded or ill-founded. For a



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moment, I am not on that. The petitioner has been charged with involvement in fraudulent activity. It definitely casts stigma on the petitioner. When a Governmental authority casts stigma on a person, it cannot be done without complying with the elementary principles of natural justice. Since the petitioner is only a scheme employee, there may not be any need for conducting any elaborate domestic enquiry or departmental enquiry as done in the case of regular Governmental employees. But then, there must be observance with the principles of natural justice at a minimum level. Even this has not been done in this case. It is for this reason I constrained to interfere. The order impugned in the writ petition is accordingly set aside.

9. Considering the fact that the petitioner was only a scheme employee, the question of paying backwages does not arise. The learned counsel appearing for the petitioner draws my attention to the decision of the Hon'ble Supreme Court reported in **(2009) 6 SCC 611 (Mohd.Abdul Kadir Vs. Director General of Police, Assam)**. It has been held that when the ad hoc appointment is under a scheme and is in accordance with the selection process prescribed by the scheme, there is no reason why those appointed under the scheme should not be continued as long as the scheme continues.



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10. If ATMA Scheme is still in force, the petitioner shall be issued with an order of appointment permitting him to reappoint. Such an order will be issued by the second respondent within a period of five weeks from the date of receipt of a copy of this order.

11. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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