



W.P(MD)No.19562 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19562 of 2022

and

W.M.P.(MD)Nos.14280 & 14281 of 2022

C.T.Suryaprakash

... Petitioner

Vs.

**1.The Revenue Divisional Officer,
Palani Revenue Division,
Palani, Dindigul District.**

**2.The Tahsildar,
Palani Taluk,
Dindigul 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 records pertaining to the impugned order passed by the second respondent herein in Na.Ka.No. 6261/2020/A2, dated 16.02.2022 and the impugned order passed by the first respondent in Na.Ka.No.3812/2021/A4, dated 07.07.2022 and quash the same as illegal and consequently, directing the respondents to reinstate the petitioner as Village Assistant with all attendant and monetary benefits within the time stipulated by this Court.

**For Petitioner : Mr.K.Govindarajan
for R.Venkateswaran**

**For Respondents : Mr.T.Villavankothai
Additional Government Pleader**



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ORDER

Heard the learned counsel on either side.

2. The writ petitioner belongs to scheduled caste. When notification was issued calling for applications from eligible candidates for the post of Village Assistant, the petitioner applied in response thereto. He was appointed on 26.02.2021 and joined as Village Assistant in Kanakkanpatti Village in Palani Revenue Division. He was issued with charge memo on 31.12.2021. The allegation made against the petitioner was that he suppressed his involvement in a criminal case. The petitioner offered his explanation. Enquiry was conducted. The enquiry officer concluded that the charge was proved. After getting further representation from the petitioner, the major punishment of dismissal from service was imposed by the Tahsildar, Palani on 16.02.2022. Questioning the same, the petitioner filed an appeal before the Revenue Divisional Officer, Palani. The appellate authority also confirmed the order of the disciplinary authority and dismissed the appeal on 07.07.2022. Challenging the same, the present writ petition came to be filed.



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3. 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.

4. The respondents have filed counter-affidavit and the learned Additional Government Pleader took me through its contents. The stand of the respondents is that the petitioner is admittedly involved in criminal cases and one case is presently pending trial. The petitioner has filed the report from the police department as if the petitioner is not involved in any criminal case. The report of the department is obviously incorrect. The petitioner knew that he was facing criminal case and was obliged to make disclosure. Since the petitioner has failed to do so, he ought to be treated as a disqualified candidate. My attention has been drawn to the decision of the Hon'ble Apex Court in *Avtar Singh Vs. Union of India reported in (2016) 8 SCC 471* in which it was held that the candidate who had indulged in suppression of material fact as regards involvement in a criminal case can very well be treated as disqualified candidate by the employer. The learned Additional Government Pleader pressed for dismissal of the writ petition.



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5. I carefully considered the rival contentions and went through the materials on record. As per Tamil Nadu Village Servants Service Rules, 1980, in making appointments under these Rules, the appointing authority shall take into consideration the character and the antecedents of the applicants. It is true that the rule position is not strict or rigorous as in the case of uniformed services. In the case of uniformed services, an implication in a criminal case is treated as involvement and an acquittal on account of the witnesses turning hostile or grounded on benefit of doubt would still act as a bar for being recruited. Such is not the case here. The call letter issued by the Tahsildar, Palani on 18.12.2020 calls upon the petitioner to produce as many as 13 documents. The Document No.8 is in Tamil and the Document No.8 has been described as follows:-

“8.காவல்துறை ஆய்வாளரிடமிருந்து குற்றம் ஏதும்
புரியவில்லை என்பதற்குரிய சான்றாவணம்□

A plain translation of the aforesaid requirement is that the petitioner must produce the document from the Inspector of Police that the petitioner has not committed any crime. Admittedly, the petitioner has not been found guilty in any criminal case. I wanted to know from the learned



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Additional Government Pleader if in the application form, there is any column calling upon the petitioner to answer the question if any criminal case has been registered against the petitioner. It is fairly stated that there is no such column in the application form. I am therefore satisfied that the petitioner cannot be charged with any act of suppression. At the same time, the statutory rule requires that the appointing authority shall take into consideration the character and antecedents of the applicants. In this case, the relevant materials were not available. The authority must have a proper verification mechanism. They should independently call for a verification report from the jurisdictional police. The format adopted by the appointing authority is clearly defective. The petitioner cannot be charged with any act of suppression. It is seen that there is a dispute between the petitioner's family on the one hand and that of one Kalimuthu. The petitioner and his brother had filed O.S.No.117 of 2009 on the file of the District Munsif Court, Palani seeking the relief of declaration and permanent injunction in respect of the disputed property. The decree was granted on 27.01.2020. It is also seen that in the criminal case, the petitioner is figuring as A5. The main witness in C.C.No.146 of 2010 on the file of the Judicial Magistrate, Palani has not implicated the



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petitioner.

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6. In these circumstances, imposing punishment of dismissal from service is unreasonable and un-sustainable. The order impugned in the writ petition is set aside. The learned counsel appearing for the petitioner stated that even at the outset, the petitioner would not claim any backwages for the period when the dismissal order was in operation. The second respondent is directed to reinstate the petitioner in service within a period of six weeks from the date of receipt of a copy of this order. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

19.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To

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G.R.SWAMINATHAN, J.



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