



W.P.(MD)No.20373 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.20373 of 2021
and W.M.P.(MD) No.17023 of 2021

E.Subramanian

... Petitioner

Vs.

1.The Registrar General,
Madras High Court,
Chennai – 600 104.

2.The Principal District Judge,
Tirunelveli District,
Tirunelveli.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the 2nd respondent in D.E. No.20/2020 dated 20.09.2021 in D.No.10997/2021 dated 20.09.2021 and quash the same as illegal and unconstitutional and consequently directing the respondents to reinstate the petitioner as a Process Server in the Principal District Court, Tirunelveli with all attendant monetary benefits.

For Petitioner : Mr.H.Arumugam



W.P.(MD)No.20373 of 2021

For Respondents : Mr.N.Mohideen Basha
Standing Counsel

WEB COPY

ORDER

(Order of the Court was made by ***S.M.SUBRAMANIAM, J.***)

The order of dismissal from service passed by the second respondent / Principal District Judge, Tirunelveli District, in proceedings dated 20.09.2021, is sought to be quashed in the present writ proceedings.

2. The petitioner states that he has completed 8th Standard at Suriyan Middle School and thereafter, studied in K.M.K.V. High School, Settudaiyanpatti. The petitioner registered his name in the District Employment Exchange and appointed as Masalchi in the Office of Principal Subordinate Court, Tirunelveli on 04.09.1998. Thereafter, the petitioner was promoted to the post of Office Assistant and posted in Additional District Munsif Court at Sankarankovil on 12.08.1999. Subsequently, he was transferred to Sub-Court at Tirunelveli. He was further promoted to the post of Process Server at Subordinate Court, Valliyoor on 05.10.2007 and again re-transferred to the office of District Court at Tirunelveli.

3. The District Judicial Administration received a complaint against the



W.P.(MD)No.20373 of 2021

writ petitioner stating that he secured employment in the judicial department by producing bogus school certificate, wherein the date of birth has also been erroneously stated as 07.06.1967 instead of his original date of birth i.e., 12.05.1959. Based on the complaint, disciplinary proceedings were initiated against the petitioner. A charge memo was issued by the second respondent along with the letter sent by the general public on 09.09.2020. The petitioner submitted his explanations on 14.09.2020 and not satisfied with the explanations, the disciplinary authority issued charge memo on 22.09.2020. An enquiry officer was appointed, who in turn conducted enquiry, after affording opportunity to the petitioner, and submitted his final report on 16.07.2021. The enquiry report submitted by the enquiry officer was accepted by the disciplinary authority and by enclosing the said report, second show cause notice was issued to the writ petitioner vide proceedings dated 30.07.2021. The petitioner submitted his objections on the findings in the enquiry report on 12.08.2021. Considering the materials available on record, the disciplinary authority passed the impugned order in proceedings dated 20.09.2021, imposing the punishment of dismissal from service. Though the petitioner has submitted a representation, during the pendency of the said representation, he filed the present Writ Petition challenging the order of dismissal from service.



W.P.(MD)No.20373 of 2021

4. Learned counsel for the petitioner mainly contended that the certificate produced by the petitioner was not bogus and he was not party to any forgery or mistake, if any committed or identified by the authorities during the course of enquiry. He being an innocent person and the certificate being obtained by his parents, he only produced the same at the time of appointment to the authorities concerned and therefore, the punishment of dismissal from service is disproportionate to the gravity of the charges framed against him. More so, the disciplinary authority has failed to consider the role of the petitioner in preparing the alleged bogus certificate.

5. Learned Standing Counsel appearing on behalf the respondents objected the said contentions by stating that the charge relating to furnishing of bogus school certificate has been established beyond any pale of doubt. The District Educational Officer was examined and during the relevant point of time, in which the alleged bogus school certificate was issued, the school itself was not functioning as High School and the Headmaster, who signed as one Baskaran was not holding the post of Headmaster during the year 1991. With reference to the contradictions identified in the alleged bogus certificate and based on the evidence available on record, the enquiry officer held that the charges are proved, which



W.P.(MD)No.20373 of 2021

was accepted by the disciplinary authority and the punishment of dismissal from service was imposed on the petitioner. Thus, there is no infirmity and the Writ Petition is to be rejected.

6. The power of judicial review under Article 226 of the Constitution of India is to ensure the process through which a decision has been taken by the competent authority in consonance with the Statutes and Rules in force, but not the decision itself. The decision making process is to be tested and while doing so, we found that the procedures as contemplated under the Discipline and Appeal Rules were scrupulously followed by the second respondent. The petitioner was provided opportunities to defend his case at every stage and infact he has submitted his explanations and he participated in the enquiry proceedings and defended his case.

7. The findings of the enquiry officer, relied on by the disciplinary authority, would reveal that D.W.3 -Thiru.Chinnarasu, District Educational Officer stated in his evidence that K.M.K.V.High School was not upgraded as High School on 03.06.1981 and only from 1994 it was functioned as a self-financed High School. Ex.A14 and Ex.D9, the Transfer Certificate issued by



W.P.(MD)No.20373 of 2021

Thiru.M.S.Baskaran was on 03.06.1981 in the capacity of Headmaster of K.M.K.V. High School. D.W.3 / District Educational Officer, deposed in his evidence that Thiru.M.S.Baskaran was working as Headmaster from September, 1994 onwards only. In letter Ex.A13 he informed that Thiru.Baskaran was working as Graduate Teacher in August, 1992 and as a Headmaster from 1994. In the Transfer Certificate Mr.M.S.Baskaran signed as a Headmaster in 1981, while the said school was upgraded as a High School only in the year 1994. Relying on the discrepancies in the certificate and the based on the evidence given by the District Educational Officer – D.W.3, the disciplinary authority arrived at the conclusion that the school certificate produced by the writ petitioner was bogus.

8. The learned counsel for the petitioner urged us by stating that there was a family dispute between the petitioner and the complainant one Rajamani. The disciplinary authority considered the said contention and formed an opinion that such personal or family dispute between the parties have no bearing on the departmental proceedings since the charges framed against the petitioner is regarding production of bogus educational certificate for securing employment in judicial department. Therefore, the disciplinary authority concurred with the enquiry officer. We do not find any infirmity in respect of the decision taken for



W.P.(MD)No.20373 of 2021

accepting the findings of the enquiry officer in his final report.

WEB COPY

9. Regarding the disproportionately theory mooted out by the learned counsel for the petitioner in the present case, the said contentions have no force since the petitioner has produced bogus certificate for securing public employment. The discrepancies found during the enquiry was accepted by the disciplinary authority. Thus, there is no perversity or infirmity. Therefore, it is hard to accept the submissions made in this regard by the learned counsel for the petitioner and we are of the opinion that the punishment of dismissal from service imposed on the petitioner is justified.

10. That being the factum, we are not inclined to interfere with the order impugned. Consequently, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

(S.M.S., J.) & (V.L.N., J.)
05.12.2023

NCC : Yes / No
Index : Yes / No
SJ



WEB COPY



W.P.(MD)No.20373 of 2021

S.M.SUBRAMANIAM, J.

AND

V.LAKSHMINARAYANAN, J.

SJ

To

To

- 1.The Registrar General,
Madras High Court,
Chennai – 600 104.
- 2.The Principal District Judge,
Tirunelveli District,
Tirunelveli.

W.P.(MD)No.20373 of 2021

05.12.2023

8/8