



W.P.(MD)No.14362 of 2016

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 14362 of 2016

and

W.M.P(MD)No. 10644 of 2016

S.Muniasamy

... Petitioner

Vs.

1.The Principal Secretary,
Government of Tamil Nadu ,
Municipal Administration and Water
Supply Department,
Secretariat, Chennai-600 009.

2. The Director of Town Panchayat,
Kuralagam,
Chennai – 108.

3. The Assistant Director of Town Panchayats,
Thanjavur Zone,
Thanjavur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, to quash the G.O.(10 years) 201, dated 04.05.2016 by calling for the records from the 1st respondent



W.P.(MD)No.14362 of 2016

WEB COPY

consequently direct the respondents to drop all the proceedings in respect of the G.O.(10 years) 201, dated 04.05.2016.

For Petitioner : Mr.V.Chandrasekar

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This writ petition is filed challenging the impugned order 04.05.2016 and to drop the proceedings in respect of G.O. (10 years) 201, dated 04.05.2016.

2. Heard Mr.V.Chandrasekar, learned counsel appearing for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader, appearing for the respondents. Perused the material documents available on record.

3. The petitioner was working as Executive Officer in the Mudukkur Town Panchayat in Thanjavur District. While he was working as Executive Officer in Koradacherry Town Panchayat, from 14.08.2010 to 30.11.2011, the



W.P.(MD)No.14362 of 2016

WEB COPY

petitioner has passed an order to appoint one K.Thennarasu, as Driver in the time scale of pay.

4. The contention of the petitioner is that the said appointment was issued based on the recruitment process of the Appointment Committee and also based on the resolution passed by the elected Council of the Town Panchayat. The respondents had given effect to the selection of the appointment committee which was also ratified in the Council meeting and the said employee is working from April 2007 onwards.

5. The said appointment was raised as an issue and in order to avoid legal battle between the Town Panchayat and the said Thennarasu, the elected members of the Council had thorough discussion by the appointment committee. Even though the petitioner is one of the members of the appointment committee, all his objection was fallen in the deaf ears and the committee went ahead to approve the said appointment. The Assistant Director who had inspected the Town Panchayat from time to time have not raised any objection or the resolution passed in the Council meeting was not cancelled by the District Collector. The



W.P.(MD)No.14362 of 2016

WEB COPY

said Thennarasu was working for more than seven years. For this appointment, charges were framed against the petitioner under Section 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. In the meanwhile, the said Thennarasu was removed from service and the entire salary was recovered from him and there is no financial loss to the Town Panchayat. Thereafter, the petitioner was imposed with punishment of reduction in rank from Grade I Executive Officer to Head Clerk and the order shall come into effect from the date of service to the individual and shall operate for two years. The period of two years will be exclusive of leave period other than casual leave. The order was handed over to the petitioner on 02.12.2014. The petitioner had time to prefer an appeal until 02.02.2015 (60 days), but the respondent had given effect to the order from 02.03.2014, thereby denied the opportunity to prefer appeal before the appellate authority.

6. At the time of admission, this Court has granted interim order of stay. Based on the interim order, the petitioner was working as Executive Officer, subsequently he attained superannuation on 30.04.2017.



W.P.(MD)No.14362 of 2016

WEB COPY

7. When the writ petition was taken up for hearing, the learned counsel appearing for the petitioner submitted that since the petitioner has already attained superannuation, because of the pendency of the writ petition, the respondents have not disbursed any terminal benefits to the petitioner.

8. The contention of the petitioner is that the Town Panchayat was allotted Tractor and the vehicle was supplied to the Town Panchayat, but has not sanctioned any post of Driver for operating the said Tractor. The further contention of the petitioner is that the respondents would take action if the Tractor is not put to use. Hence, in order to put the vehicle for better use and in the interest of public, a daily wage employee was appointed. By taking into consideration of the service rendered by the daily wage employee, the elected representative of the Town Panchayat especially the appointment committee members had passed necessary resolution to absorb him in the time scale of pay and later on necessary resolution was also passed in the Council meeting. The copy of the resolution was forwarded to the higher authorities and they have not objected to the resolution of the appointment committee and the audit party has not raised any objection. The District Collector has not cancelled the resolution of



W.P.(MD)No.14362 of 2016

WEB COPY

the Council. No action was taken against the other members of the committee and the Council of Members, but the petitioner was made scape goat. Hence the petitioner prayed to allow the writ petitioner.

9. After hearing the rival submissions of the parties, this Court is not able to appreciate the action taken by the respondents. The respondents might have directed to consider this appointment as “temporary appointment” and further directed the Town Panchayat for fresh selection process in accordance to law and appoint the selected person as permanent appointee. The District Collector has power to cancel the appointment by Cancelling the resolution of the Municipal Council. As rightly pointed out by the petitioner the respondents have not taken any action against the other members of the appointment committee or the Council of elected members. Since the procedure for selection would take time the Town Panchayat has decided to appoint the driver temporarily. There is no illegal motive or intention for the petitioner to appoint the said Thennarasu. Moreover, the punishment inflicted on the petitioner is disproportionate. The petitioner has taken steps to appointment the driver only to utilize the Tractor, which was allotted to the Town Panchayat, otherwise the Tractor would be



W.P.(MD)No.14362 of 2016

WEB COPY

rusting. Therefore, this Court is of the considered opinion that the punishment is absolutely unwarranted.

10. Therefore, this Court is inclined to quash the impugned punishment order and the same is quashed. Since the petitioner has already retired from service as Executive Officer and the petitioner is entitled to salary and service benefits which is applicable to the post of Executive Officer. The respondents are directed to disburse the same, within a period of four weeks from the date of receipt of a copy of the order.

11. With the above observations, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes
ksa

14.03.2023



W.P.(MD)No.14362 of 2016

WEB COPY

To

1. The Principal Secretary,
Government of Tamil Nadu ,
Municipal Administration and Water
Supply Department,
Secretariat,
Chennai-600 009.
2. The Director of Town Panchayat,
Kuralagam,
Chennai – 108.
3. The Assistant Director of Town Panchayats,
Thanjavur Zone,
Thanjavur.



WEB COPY



W.P.(MD)No.14362 of 2016

S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No.14362 of 2016**

14.03.2023