



W.P.(MD) No.1797 of 2016

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDERS RESERVED ON : 23.08.2023

ORDERS PRONOUNCED ON : 21.09.2023

CORAM

THE HON'BLE MR.JUSTICE BATTU DEVANAND

W.P.(MD) No.1797 of 2016

and

W.M.P.(MD) Nos.1541 and 1542 of 2016

and

W.M.P.(MD) No.4106 of 2016

R.Ganapradeepan

... Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Treasury and Accounts Officer,
Ramanathapuram.

3.The Employment Exchange Officer,
Ramanathapuram Employment Exchange,
Ramanathapuram.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari calling for the records pertaining to the



W.P.(MD) No.1797 of 2016

impugned order passed by 2nd respondent in Na.Ka.No.15568/2012/A2 dated 22.01.2016 and quash the same.

For Petitioner : Ms.M.Parameswari
for Mr.S.M.S.Johnny Basha

For Respondents : Mr.P.Subbaraj
Special Government Pleader

ORDER

This writ petition is filed to quash the impugned order passed by 2nd respondent in Na.Ka.No.15568/2012/A2, dated 22.01.2016 and quash the same.

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

3. The case of the petitioner is that his educational qualification is 10th Standard fail. He is a physically disabled person and the District Disability Officer has issued a certificate to this effect. He registered himself in the Ramanathapuram District Employment Exchange with the



W.P.(MD) No.1797 of 2016

above qualification on 23.07.2008 and was periodically renewing the entry.

After registration, he was awaiting to his opportunity. The 2nd respondent has called for the names from the 3rd respondent and the 3rd respondent has forwarded the petitioner's name also. Thereafter, the 2nd respondent after ascertaining the merits and eligibility, has issued an appointment order on 25.04.2013 to join the service as Office Assistant and the petitioner immediately joined the service. After completion of one year of service, the petitioner was included in the Contributory Provident Fund and regularly an amount was being deducted to the account. The petitioner would submit that three more persons were recruited along with him and they have been promoted and he is waiting for promotion. In the mean time, the impugned order was passed cancelling the appointment order of the petitioner. In addition to, termination order was also passed. Hence, the present writ petition.

4. Counter affidavits have been filed by the 2nd and 3rd respondents.



W.P.(MD) No.1797 of 2016

WEB COPY

5. In the counter affidavit filed by the 2nd respondent, it is averred that the 3rd respondent sponsored five candidates for the post of Office Assistant for Ramanathapuram District Treasury Unit including the petitioner under the category Most Backward Class in the priority of “inter-caste marriage” and it was specifically pointed out that not under the priority of “physically handicapped” and subsequently, based on the recommendation of the 3rd respondent, the petitioner was purely appointed on provisionally with a condition that he would be terminated at any time without issuing prior notice. After completion of one year, the services of all other four Office Assistants, who were recruited and appointed provisionally on 29.04.2013 had only been regularised by the 2nd respondent and had not been promoted as contended by the petitioner.

6. It is further averred in the counter affidavit that during the time of regularisation, the provisional recruits should produce their original certificates, particularly priority certificate for their genuineness. Therefore, all other four Office Assistants had produced their original certificates at the



W.P.(MD) No.1797 of 2016

time of regularisation and their services were also regularised. But the petitioner did not produce the priority certificate, i.e., the inter-caste marriage certificate at the time of regularisation even after the petitioner was reminded by the 2nd respondent. So the process of regularisation of the petitioner was held up by the 2nd respondent after emerging of doubt about the petitioner's genuineness. Thereafter, the 2nd respondent *vide* his communication dated 25.05.2015 addressed the 3rd respondent seeking clarification whether the petitioner or his parents is coming under the category of “inter-caste marriage”. In this regard, the 3rd respondent *vide* his letter dated 04.06.2015 clearly mentioned that the petitioner was not coming under the priority category of “inter-caste marriage”, but under the priority category of “physically challenged”. The 3rd respondent further added that despite the petitioner coming under the priority list of “physically handicapped”, his employment was not included in the seniority list and the petitioner had been inadvertently sponsored and asked the 2nd respondent to terminate the petitioner's appointment. Regarding the averment that the petitioner was ousted from the post without issuing notice, it is averred that the Government servant could be discharged from the service, where it is



W.P.(MD) No.1797 of 2016

discovered later that the Government servant was not qualified or eligible for his initial recruitment.

7. The 3rd respondent has filed a counter stating that if the 2nd respondent verified the genuineness of the petitioner's priority certificate, the issuance of appointment order to the petitioner would have been avoided.

8. Having heard the submissions of the respective counsels and upon perusal of the material available on record, it appears that the petitioner's name was sponsored by the 3rd respondent along with other four candidates for the post of Office Assistant under the category of Most Backward Class in the priority of “inter-caste marriage”. The petitioner was appointed and joined duty on 29.04.2013. After completion of one year of service, all other four Office Assistants, who were recruited along with the petitioner on 29.04.2013 had been regularised by the 2nd respondent. At that time, the 2nd respondent found that the petitioner or the parents of the petitioner are not coming under the category of “inter-caste marriage” and



W.P.(MD) No.1797 of 2016

the petitioner also failed to produce the original certificates pertaining to the priority category, the 2nd respondent sought information from the 3rd respondent. The 3rd respondent, in his letter, informed that the petitioner is coming under the priority list of “physically handicapped” and his name has been inadvertently sponsored by the 3rd respondent.

9. In view of the fact that the petitioner was appointed in the post earmarked for the category of the Most Backward Class in the priority of “inter-caste marriage”, the 2nd respondent issued termination order dated 22.01.2016 to the petitioner.

10. Admittedly, the petitioner was appointed on 25.04.2013 and thereafter to till termination order dated 22.01.2016, he worked as Office Assistant in the 2nd respondent's office. At the stage of admission, this Court, by order dated 27.01.2016, passed an order of interim stay of the impugned order. In the light of the interim stay order, the petitioner is continuing till date.



W.P.(MD) No.1797 of 2016

WEB COPY

11. On careful perusal of the impugned order, it appears that no notice was issued to the petitioner before passing the termination order and no opportunity was provided to the petitioner to putforth his version before the 2nd respondent. Besides this, admittedly, the petitioner is not at fault for sponsoring his name by the 3rd respondent. For the mistake committed by the 3rd respondent, who sponsored his name, the petitioner could not be blamed.

12. Considering all these aspects, as the petitioner is working as Office Assistant for the last 10 years and admittedly, he is physically disabled person, the respondents ought to have shown some humanitarian approach before passing the impugned order.

13. In the considered opinion of this Court, the order impugned in this writ petition cannot sustain in the eye of law on the sole ground that no notice was issued to the petitioner before passing the termination order.



W.P.(MD) No.1797 of 2016

14. It is settled law that passing any order, without issuing notice to the aggrieved party, amounts to violation of principles of natural justice.

15. In the present case, the impugned order is issued in violation of principles of natural justice and as such, it will not sustain and accordingly, as such it is liable to be set aside.

16. Accordingly, this Writ Petition is allowed and the order impugned in this writ petition in Na.Ka.No.15568/2012/A2, dated 22.01.2016 of the 2nd respondent is set aside.

17. There shall be no order as to costs.

18. Consequently, connected miscellaneous petitions are closed.

21.09.2023

Note: Issue order copy by 26.09.2023.

NCC : Yes/No

Index : Yes/No

abr



WEB COPY



W.P.(MD) No.1797 of 2016

BATTU DEVANAND, J.

abr

To

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Treasury and Accounts Officer,
Ramanathapuram.
- 3.The Employment Exchange Officer,
Ramanathapuram Employment Exchange,
Ramanathapuram.

Pre-delivery Order made in
W.P.(MD) No.1797 of 2016

21.09.2023