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W.P.(MD) No.2647 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.10.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD) No.2647 of 2017

M.Imayavaramban

... Petitioner

-vs-

The Registrar General
High Court
Madras-600 104

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the order dated 27.01.2016 in ROC No.6267/2010/Estt-II and the order dated 1.8.2015 in ROC No.6267/2010/Estt-II of the respondent herein and quash the same and consequently direct the respondent herein to reinstate the petitioner as Assistant Section Officer with all attendant benefits with effect from 4.8.2015.



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For Petitioner : Ms.AL.Ganthimathi, Senior Counsel
for Mr.C.Mahadevan

For Respondent : Mr.D.Venkatesh

ORDER

[Order of the Court was made by S.M.SUBRAMANIAM, J.]

The order of dismissal from service dated 01.08.2015, passed by the respondent, is sought to be quashed in this writ petition.

2. The petitioner was appointed as Typist in Madras High Court by order dated 31.07.2000 and he joined duty as Typist in the year 2004 on the eve of formation of Madurai Bench of Madras High Court at Madurai. The petitioner was promoted and appointed at Madurai Bench as Assistant. Thereafter, on 22.02.2007, he was promoted as Assistant Section Officer.

3. According to the petitioner, it is a pre-requisite qualification to possess pass in Civil, Criminal and Judicial Tests for the Members of the Judicial Department and Accounts Test for the Subordinate Officers as per the Rules in force. Since it is a mandatory requisite qualification under the Rules, the petitioner participated in the process of Departmental Examinations



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conducted by the Tamil Nadu Public Service Commission. Thereafter, the petitioner approached the office of the Tamil Nadu Public Service Commission and enquired about his results. At that time, one unknown person in the campus came to him and asked about the emergency for the results and he told the petitioner that the Tamil Nadu Public Service Commission is not responding promptly for all the cases and if the petitioner is ready to pay Rs. 200/- with a self-addressed cover, he would get the petitioner's results and send it to him through post. Thereafter, the petitioner received a letter stating that he was declared “pass” in the Accounts Test conducted by the Tamil Nadu Public Service Commission and therefore, according to the petitioner, he has not committed any fraud nor submitted any fake certificate.

4. Not convinced with the explanation submitted by the petitioner, the respondent issued a charge memo to the petitioner on 04.02.2013. The charges framed against the petitioner are as follows:

“1.That you, Thiru.M.Imayavaramban, Assistant Section Officer (under suspension), Madurai Bench of the Madras High Court, Madurai, have stated in your letter dated.19.09.2006 that you have enclosed the result of the Account Test for subordinate Officers-Part-I to make necessary entry in your Service Register and delay in



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submitting the result may kindly be excused, by enclosing the Memorandum of Admission to appear for the Departmental Examination-December 2001 bearing your Roll No.005704 and the TNPSC Bulletin Extraordinary dated.07.03.2002 containing your Roll No., thereby got promotion as Assistant Section Officer in the year 2007. While receiving the complaint petition, the Registry came to know that you have not passed the Account Test for Subordinate Officers-Part-I and you have submitted a forged TNPSC Bulletin in which the Roll No.005720 has been substituted with your Roll No.005704 and hence you have cheated this Honourable High Court.

2.That you, Thiru.M.Imayavaramban, Assistant Section Officer (under suspension), Madurai Bench of Madras High Court, Madurai, have done the aforesaid act with the help of one Thiru.S.Balasundaram, Assistant Section Officer, Mandurai Bench of the Madras High Court, Madurai.

The aforesaid acts of yours amounts to misconduct, non-integrity and cheating and thus you have acted in a manner of unbecoming of a Government servant and thereby violated Rule 20 of Tamil Nadu Government Servants' Conduct Rules, 1973.”



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5. Enquiry was conducted by affording opportunity to the petitioner and the petitioner effectively participated in the enquiry process conducted by the Enquiry Officer / Registrar (Vigilance). Thereafter, the Enquiry Officer submitted a report to the Disciplinary Authority. The relevant portion of the findings of the Enquiry Officer reads as under:

“It is significant to note that the TNPSC is notifying the list of failed candidates in its Bulletin, which is periodically being published as and when the results of the examinations are published. The bound volume of the TNPSC Bulletin is produced as Ex.P3. The original TNPSC Bulletin released on 07.03.2002 find a place in Ex.P3 which has been marked as Ex.P4. W.No. 1 furnished the copy of the Hall Ticket submitted by Thiru.M.Imayavaramban (D.O.1) as Ex.P5, wherein, the registration number assigned to D.O.1 is 005704. But on verification of the original TNPSC Bulletin, the registration number assigned to D.O.1 Thiru.M.Imayavaramban is 005704 is not seen in Pg.No. 449 of Ex.P4. The date of publication of Ex.P1 and Ex.P4 are one of the same i.e., on 07.03.2002.

It is also seen from those documents that the Bulletin number and the page number also the same. The list of passed candidates are available in the



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original Bulletin Ex.P6. The name of the candidate one Thiru.N.Indirakumar finds a place in the list of the passed candidates for the registration number 005720. The list of registration numbers of failed candidates are also available in the same Bulletin.

The registration number of Thiru.M.Imayavaramban 005704 finds a place in the list of failed candidates in the same Bulletin in Page No.773 of Ex.P7. The registration number 005704 found in Ex.P5 copy of the Hall Ticket produced by Thiru.M.Imayavaramban in support of his claim finds a place in Ex.P7, list of failed candidates. These are all the facts which are substantiated by W.No.1 by producing the relevant original documents.

The statement given by W.No.1 in this regard has been subject to cross examination of the other Delinquent Officers, D.O.2 and D.O.3. But, nothing could be thwarted by D.O.2 and D.O.3 at the time of cross examination. The above facts stated by W.No.1 are borne by documentary evidence and any amount of oral evidence against such documentary evidence has no significance at all, because such documents are published by the competent authority in the routine official business which has its own sanctity.

It is the stand of the Delinquent Officer Thiru.M.Imayavaramban that he had been appearing for



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the TNPSC Departmental Examination from the year 2001 to 2006, but he could not able to make out his appearance fruitful. According to him, that the unsuccessful attempt had driven him to approach the TNPSC office at Madras to verify the result for the examination which held in the year 2001. It is the definite stand in his explanation and written statement that he had approached the TNPSC personally and one man, whose identity could not be recalled, approached him and demanded Rs.200/- and one self-addressed stamped cover for the purpose. D.O.1 complied the demand of the unidentifiable person who according to him had sent the list appended along with Ex.P1.

D.O.1 took the stand that it was submitted bonafidely in good faith and no doubt arose as to the genuiness of the Bulletin received by post from the unidentifiable person of the TNPSC Office. It was a surprise for him at the time of inquiry by the Registrar [Administration], Madurai Bench that it was a bogus one. D.O.1 pleaded innocence on these grounds. W.No.1 stated that D.O.1 with the help of D.O.2 and D.O.3 could able to penetrate in to the well organised administration, and able to push the irregularity on record, came out successfully in his attempt and got the promotion as Assistant Section Officer.”



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6. The findings of the Enquiry Officer were accepted by the Disciplinary Authority. Further explanation was sought for from the delinquent employee. The petitioner submitted his further explanation on 19.09.2013 and on considering the same and based on the materials available on record, final order, dated 01.08.2015, was passed imposing the punishment of dismissal from service with effect from 01.08.2015 under Rule 8(viii) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules.

7. Learned Senior Counsel appearing for the petitioner mainly contended that the petitioner himself was not aware of the genuinity of the certificate and therefore, he cannot be blamed for any such mistake or otherwise. The petitioner received a cover stating that he has passed in the Departmental Test and by producing the said letter, promotion was granted and he had not intended to submit any fake certificate for the purpose of securing promotion. Thus, the petitioner is to be exonerated.

8. Learned counsel appearing for the respondent objected the above contention of the learned Senior Counsel appearing for the petitioner by stating that opportunity was afforded to the petitioner to establish his case.



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Documents were marked. The Enquiry Officer considered the documents, which were not rebutted by the petitioner during the course of enquiry. As per the Bulletin / Notification of the Tamil Nadu Public Service Commission, the petitioner was declared “fail” in the Departmental Test and therefore, the certificate produced by the petitioner was found to be fake and thus, penalty of dismissal from service was imposed.

9. Producing bogus / fake certificates for securing appointment or promotion is a serious misconduct. Promotion is not a right of an employee. However, consideration for promotion is a fundamental right of the employee. When all the eligible employees are considered for grant of promotion and one employee submitting a bogus certificate and securing promotion, it would result in denial of promotion to the other employees, who all are waiting for securing promotion in accordance with the Rules. Thus, the repercussion at large would cause prejudice to the other employees. More so, any employee submitting fake certificate and securing promotion cannot be leniently viewed, as it is a serious misconduct. The very trustworthiness of the employee itself cannot be relied upon. Therefore, we do not find any disproportionality regarding the quantum of punishment imposed on the petitioner. Any lenient



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view in respect of serious misconduct will result in wrong precedent and therefore, we are not inclined to interfere with the impugned order passed by the respondent / Disciplinary Authority, which is in consonance with the established principles and more so, the procedures as contemplated under the Discipline and Appeal Rules were also followed scrupulously.

10. In the result, the writ petition is dismissed. No costs.

[S.M.S., J.]

[V.L.N., J.]

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

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