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W.P.No.12339 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	:	09.02.2024
Pronounced on	:	28.02.2024

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.12339 of 2011

V.Veeraraghavan

...Petitioner

Vs.

1.The Managing Director,
State Express Transport Corporation Ltd.,
Thiruvallur House,
Pallavan Salai, Chennai – 2.

2.The Chairman,
State Express Transport Corporation Ltd.,
(Commissioner & Secretary to Govt.,)
Transport Department,
Chennai – 9.

3.The Board of Directors
rep. by the Managing Director,
State Express Transport Corporation Ltd.,
Pallavan Salai,
Chennai – 2.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondents 1, 2 and 3 in connection with the orders passed by them in



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Proc. No.57190/ F4/TTC/84 dated 08.03.1985, Proc.No.55/CHO/2004 dated 03.03.2004 and Letter No.36590/L10/SM/SETC/02 dated Nil of February 2011 respectively and quash the same and direct the respondents to reinstate the petitioner in service notionally with all monetary and service benefits and pay pensionary benefits.

For Petitioner : Mr.N.Viswanathan

For Respondents : Mr.Silambanan, Senior counsel (for R1 & R3)
asst by Mr.L.S.M.Hasan Fizal,
Assistant Government Pleader, Standing counsel

Mr.D.Gopal, Government Advocate (for R2)

ORDER

This Writ Petition is filed calling for the records on the file of the respondents 1, 2 and 3 in connection with the orders passed by them in Proc. No.57190/ F4/TTC/84 dated 08.03.1985, Proc.No.55/CHO/2004 dated 03.03.2004 and Letter No.36590/L10/SM/SETC/02 dated Nil of February 2011 respectively and quash the same and direct the respondents to reinstate the petitioner in service notionally with all monetary and service benefits and pay pensionary benefits.



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2.The case of the petitioner is that he was selected as Apprentice on 07.05.1979 and subsequently absorbed as Junior Assistant on 08.05.1980 in Thiruvallur Transport Corporation Limited. He was placed under suspension by the Personnel Officer vide Memo.No.163/30120/A1/TTC/83 dated 31.08.1993 on the ground that an enquiry in connection with certain grave charges is pending against him. He submitted his explanation dated 10.10.1983 for the charge memo. Not satisfied with his explanation, an enquiry was conducted. The Enquiry Officer found that charges 1, 2, 3 and 5 had been proved and charge No.4 had not been proved. A second show cause notice dated 26.11.1984 was issued to him. He submitted his explanation on 25.02.1985. Not satisfied with his explanation, he was dismissed from service by Managing Director in his Proceedings No.57190/F4/TTC/84 dated 08.03.1985.

2.1.It is submitted by the learned counsel for the petitioner that, the allegations that he produced a Community certificate claiming that he belongs to Scheduled Caste (Harijan) for securing age relaxation and appointment is not correct. He belongs to Backward Class community. His service records reflects that he belongs to Backward Class community. Without any proper evidence, the Enquiry Officer found him guilty of the charges, especially, when there are no materials available to show that he produced a community certificate



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claiming that he belongs to Scheduled Caste (Harijan). The Management witnesses claim that the documents in respect of community certificate and age of the petitioner are missing from the concerned files. He cannot be fastened with the responsibility for missing of documents, merely on the suspicion that petitioner would have removed the community certificate or someone else interested in the petitioner would have removed the community certificate. Suspicion, however strong, will not take the place of proof. The document Ex.M10 relied to conclude that petitioner belongs to Scheduled Caste (Harijan) is not correct for the reason that Ex.M10 is a created document by the Management. Petitioner is not the author of this document. Ex.M14 was sent by a fictitious person inimical towards the petitioner. Persons more aged than the petitioner were also selected. Therefore, the claim that petitioner claims himself that he belongs to Scheduled Caste (Harijan) to get age relaxation and appointment is not correct. In the said circumstances, this Writ Petition is filed.

3.In reply, learned counsel for the respondents submitted petitioner's name was sponsored by the Employment Exchange along with others. At the time of appointment, petitioner was aged more than 30 years. The maximum age for Backward Class was 30 and Scheduled Caste was 35. Petitioner produced certificate claiming himself as Scheduled Caste (Harijan) and on that



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basis, he got age relaxation and appointment. Later, he produced community certificate claiming himself as Backward Class and that was entered in his service register. The certificate produced by him claiming himself as Scheduled Caste (Harijan) had been missing from the file and the relevant entry in the register was torn. However, when the petitioner was appointed, the details of the petitioner was entered in a register along with other persons. It clearly shows that petitioner has given his community as Scheduled Caste (Harijan). This register is kept in the office in its regular business and it could not have been tampered by anyone. Ex.M10 is the extract of this register. Therefore, it is clear that petitioner produced a false community certificate claiming himself as Scheduled Caste (Harijan) for claiming age relaxation and appointment. Therefore, necessary disciplinary proceeding was initiated against him and the Enquiry Officer found him guilty of the charge Nos,1, 2, 3 and 5 and thereafter, he was imposed with suitable punishment. In the said circumstances, learned counsel for the respondent prays for dismissal of this petition.

4.Considered the rival submissions and perused the records.

5.The charge memo reads that,



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“1.That he had fraudently and dishonestly produced a false certificate misrepresenting his community as scheduled caste through he belonged to BC class and got appointment.

2. That he has dishonestly suppressed his disqualification of age at the particular point of time by producing a false community certificate and get appointment.

3. That he has cheated the corporation by producing a false community certificate and by suppressing his disqualification of age.

4. That his conduct spoiled the reputation of the corporation in the mind of General Public.

5. That his conduct deprived a person from a scheduled caste immunity from getting appointment.”

5.1.On the basis of the charges, an enquiry was conducted. The Enquiry Officer found that except charge No.4, other charges have been proved. It is seen from the Enquiry report that page Nos.63 and 64 of the file containing details of community was found missing. It was also found that panel prepared on 26.04.1979 and annexure prepared on 02.05.1979 for the purpose of appointment as Apprentice are also not seen in the file. Page Nos. 63 and 64



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had entries of the educational qualification, caste etc., of

Thiru.V.Veeraraghavan. As per Ex.M10, petitioner Thiru.V.Veeraraghavan has given his community as Scheduled Caste (Harijan). After petitioner's appointment as Assistant, his service book was opened and it was shown in the service register that he belongs to Backward Class community. On the basis of the available records, the Enquiry Officer found that the relevant pages in the file containing education qualification, community of the petitioner and annexure were found missing. Either they were removed by the petitioner or someone else who had interest in the petitioner.

5.2.Now, respondent produced register containing service details of the petitioner and other persons. This register shows that petitioner's caste as Scheduled Caste (Harijan). This register is maintained by the department in its regular course of business. Therefore, the genuineness of this register cannot be doubted or challenged. It is clearly established that petitioner claiming himself that he belongs to Scheduled Caste (Harijan), got age relaxation and appointment. Subsequently, the community certificate produced by him was removed from the file. After finding this mischief in the enquiry, Enquiry Officer held that charges against the petitioner were held to be proved. The result is that he was dismissed from service, considering the nature of the grave



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misconduct committed by petitioner in producing false community certificate claiming himself as Scheduled Caste (Harijan), when he actually belongs to Backward Class for securing age relaxation and appointment. It is a serious mis-conduct. Therefore, this Court is of the view that the punishment of dismissal from service imposed against him is just and appropriate.

6.In this view of the matter, this Court finds that petitioner prayer cannot be considered. Accordingly, this Writ Petition is dismissed. Respondents shall bear the costs.

.02.2024

Index:Yes/No
Speaking/Non speaking order
gd



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To

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G.CHANDRASEKHARAN.J.,

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Pre-Delivery Order in
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