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WP.No.21064 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.21064 of 2010

and M.P.No.1 of 2010

P.Manoharan

...Petitioner

Vs.

- 1.The Managing Director,
Tamil Nadu Civil Supplies Corporation Ltd.,
Kilpauk, Chennai-10.
- 2.The Regional Manager,
Tamil Nadu Civil Supplies Corporation Ltd.,
Dharmapuri -5.
- 3.The Secretary to Government,
Food, Consumer Protection &
Cooperation Department,
Chennai-600 009.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of writ of Certiorarified Mandamus, praying to call for the records relating to the order passed by the 2nd respondent in his Pro. No.E3/14294/83 dated 20.10.2008 and the order passed by the appellate authority i.e., the 1st respondent in his



WP.No.21064 of 2010

Pro.AD1/74721/2009 dated 25.03.2010, quash the said and issue consequential directions to the respondents herein to reinstate the petitioner in service in a suitable post in the Tamil Nadu Civil Supplies Corporation Ltd., or in the Co-operation Department with effect from 06.01.1982 with all consequential benefits.

For Petitioner : Mr.R.Thamarai Selvan

For Respondents : Mr.C.Selvaraj

ORDER

The brief facts that are relevant for disposal of this writ petition are as under:

The petitioner herein was appointed as Trainee Sales Assistant by an order dated 30.11.1979, issued by the 2nd respondent at Amutham Village Level Fair Price Shops at Jammanahalli, subject to conditions of appointment of Trainee Sales Assistant of Tamil Nadu Civil Supplies Corporation Limited. While he was working as such, it was on 06.01.1982 and 07.01.1982, the Deputy Supply Officer and the Officers of the Civil Supply Corporation inspected the shop where the petitioner was working and on finding certain shortages, the petitioner was relieved from services on 07.01.1982. Thereafter, a criminal case was



WP.No.21064 of 2010

WEB COPY

registered against the petitioner in Crime No.2 of 1982 of A.Pallipatti Police Station under Section 409 IPC, on the basis of the complaint lodged by the 2nd respondent. In the said crime, a charge sheet was filed on 09.09.1989 by the concerned Police and finally, the petitioner was acquitted in the said crime, vide C.C.No.306 of 1989 by judgement dated 10.12.2007. Thereafter, the petitioner submitted a representation dated 13.03.2009 requesting for re-instatement into service on the ground of Hon'ble acquittal in the criminal case. Thereafter, the petitioner approached this Court by filing W.P.No.20601 of 2008, complaining inaction on the part of the respondents in considering the representation dated 13.03.2009. This Court, by an order dated 05.09.2008, directed the 2nd respondent herein to consider the petitioner's representation dated 13.03.2009 and to pass orders thereon.

2. Pursuant to the said order, the 2nd respondent issued proceedings in Na.Ka.No.E3/14294/83, dated 20.10.2009 informing the petitioner that all the fair price shops functioning under the control of the Tamil Nadu Civil Supplies Corporation Limited along with the employees serving in the shops, have been transferred to the control of



WP.No.21064 of 2010

WEB COPY

the Co-operation Department with effect from 10.10.1987 and as such, there was no post of Trainee Sales Assistant in their Corporation.

3. Aggrieved by the said order dated 20.10.2009, the petitioner filed an appeal dated 05.11.2009 before the 1st respondent and the said appeal was rejected by the 1st respondent by proceedings dated 17.06.2009. It is aggrieved by the said orders, passed by the 2nd respondent dated 20.10.2009 as confirmed by the 1st respondent, by an order dated 17.06.2009, the petitioner has approached this Court by filing the present writ petition.

4. The learned counsel for the petitioner contended that the petitioner was honourably acquitted on merits in the criminal case, vide C.C.No.306 of 1989, by a judgment dated 10.12.2007 and as such, the petitioner is entitled for re-instatement to the post of Trainee Sales Assistant. It is also further contended that the petitioner was abruptly relieved from service without following any due process of law and no enquiry was conducted before discontinuing the services of the petitioner. Thus, it is contended that the discontinuance of the services of the petitioner is in violation of the principles of natural justice and he



WP.No.21064 of 2010

WEB COPY

is entitled for re-instatement consequent upon the honourable acquittal in the criminal case.

5. On the other hand, Mr.C.Selvaraj, learned counsel appearing for the respondents contended that the petitioner was appointed as a Trainee Sales Assistant and he was not a permanent employee of the respondents/Corporation and in terms of the conditions governing the post of Trainee Sales Assistant, his services are liable to be discharged at any time without issuing any notice and in the instant case, consequent upon the shortage of stocks found in the shop, in which the petitioner was working, he was relieved from service as early as on 07.01.1982 in terms of the conditions governing the post of Trainee Sales Assistant. He also further contended that the acquittal of the petitioner in the criminal case was not an honourable acquittal but it is on the ground of "benefit of doubt" and therefore, the same cannot be a ground for seeking re-instatement to the post of Trainee Sales Assistant. He also placed before this Court the terms and conditions governing the post of Trainee Sales Assistant.

6. This Court has carefully considered the submissions made on



WP.No.21064 of 2010

WEB COPY

either side and also perused the entire materials available on record.

7.It is not in dispute that the petitioner was relieved from service on 07.01.1982. Thereafter, though the petitioner is claiming to have submitted various representation seeking re-instatement into the service no such material has been placed before this Court in support of such contention. As seen from the records, for the first time, it was only on 13.03.2009 the petitioner submitted a representation seeking re-instatement, that is, after acquittal in the criminal case. Thus, from the year 1982 till the year 2009, there was no attempt on the part of the petitioner seeking re-instatement into service. Thus, it is clear that for about 27 years, the petitioner has not raised any objection against relieving him from service on 07.01.1982 and hence, the claim of the petitioner for re-instatement is liable to be rejected only on the ground of delay and laches.

8.Be that as it may. It is not in dispute that the petitioner was appointed only as a Trainee Sales Assistant with stipend of Rs.100/- per month as he was kept under apprenticeship and he was undergoing



WP.No.21064 of 2010

WEB COPY

apprenticeship training only as on the date of relieving from the services. Thus, the petitioner, though was appointed as a Trainee Sales Assistant, had not attained the status of the public servant or a permanent employee, necessitating the respondents/Corporation to follow all the procedures that are required to be followed in the case of a regular employee.

9.In the instant case, there was no challenge to the action of the respondents/Corporation in relieving the petitioner on 07.01.1982 either at the relevant point of time or in the present writ petition. The claim of the present writ petition is only for re-instatement consequent upon his acquittal in the criminal case on the ground that the said acquittal was honourable acquittal. A perusal of the judgment dated 10.12.2007 in C.C.No.306 of 1989 clearly discloses that the said acquittal was not an honourable acquittal, but it was on the ground of "benefit of doubt". Therefore, the said ground agitated by the petitioner is also not sustainable.

10.Further, in the absence of any challenge to the original order of



WP.No.21064 of 2010

WEB COPY

of the respondents/Corporation, relieving the petitioner as early as on 17.01.1982, the question of petitioner being granted any relief directing re-instatement into the service that to at this length of time, does not arise. Further, the petitioner has also attained the age of superannuation during the pendency of the present writ petition. For this reason as well, this Court is not inclined to interfere with the impugned orders and not inclined to grant any relief in the present writ petition.

11.In the light of the above, this Court does not find any merit in the writ petition and the same is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.11.2024

Vsn



WEB COPY



WP.No.21064 of 2010

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