



W.P.No.24157 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 25.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.24157 of 2011

and

M.P.No.2 of 2011

K.Kumaradevan

...Petitioner

Vs

1.The State of Tamilnadu rep.
by the Secretary to Government,
Rural Development (E5) Department,
Secretariat,
Chennai – 9.

2.The District Collector,
Collectorate,
Cuddalore,
Cuddalore District.

3.The Block Development Officer,
(Village Panchayat)
Parangipettai Panchayat Union,
Cuddalore District.

3.Arulmozhideven Panchayat rep.
by the President,
Arulmozhidevan Panchayat,
Parangipettai Panchayat Union,
Cuddalore District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to



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issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 3rd respondent in connection with the order passed by him in his Proc.Na.Ka.No.A2/4998/08, dated nil, February 2011, signed on 24.02.2011 and quash the same to the extent of the petitioner only and direct the respondents to reinstate the petitioner in service with all monetary and service benefits by relaxing the condition of SSLC pass qualification in favour of the petitioner stipulated in G.O.(MS).No.245, Rural Development (E5) Department dated 04.08.1997 under Rule 48 of the Tamilnadu State and Subordinate Service Rules.

For Petitioner : Mr.R.Singgaravelan, Senior Counsel

For Respondent : Mr.D.Gopal, (for R1 & 2)
M/s.R.J.Radhika (for R3)

ORDER

The Writ Petition is filed to call for the records on the file of the 3rd respondent in connection with the order passed by him in his Proc.Na.Ka.No.A2/4998/08, dated nil, February 2011, signed on 24.02.2011 and quash the same to the extent of the petitioner only and direct the respondents to reinstate the petitioner in service with all monetary and service benefits by relaxing the condition of SSLC pass qualification in favour of the petitioner stipulated in G.O.(MS).No.245, Rural Development (E5) Department dated 04.08.1997 under Rule 48 of the Tamilnadu State and Subordinate Service Rules.



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2. It is the case of the petitioner that petitioner was appointed as Panchayat Assistant and joined in Arulmozhideven Village Panchayat, Chidambaram taluk, Cuddalore District. Even at the time of joining, he did not pass SSLC. It was informed to the Appointing Authority. While so, on the basis of the instruction from the District Collector, Cuddalore dated 07.02.2011, his service was terminated, stating that he did not have requisite qualification of a pass in SSLC. Therefore, he filed this Writ Petition.

3. Learned Senior counsel for the petitioner submitted that, at the time of moving the Writ Petition, a stay application was also filed and this Court granted order of status-quo against the impugned order in MP.No.2 of 2011 on 27.01.2012. Petitioner is still in service. He has been in service for nearly 22 years. He had not committed any act of cheating in getting the employment. He believed that even a 10th failed student can be appointed for the post. He was not at fault for the appointment. The Appointing Authority should have verified his educational credentials and rejected his application. After appointment and permitted to serve this long years, it is not open to the respondents to terminate the petitioner from service.

3.1. It is his further submissions that, petitioner had filed representation dated 13.06.2011 to the 1st respondent seeking to set aside the order impugned



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by relaxing the condition to pass SSLC examination, as per Rule 48 of Tamil Nadu State and Subordinate Service Rules. He is prepared to submit a fresh representation and requests that his representation to be considered by the Government, facilitating his continuance in employment.

4.Learned Government Advocate opposed the submissions, stating that, since petitioner has no requisite basic minimum qualification of passing SSLC, he was terminated from service. Thus, he prays for dismissal of this Writ Petition.

5.Considered the rival submissions and perused the records.

6.As per G.O.(MS).No.245, Rural Development (E5) Department, dated 04.08.1997, the basic requirement for posting a person as Panchayat Assistant in Village Panchayat, is a pass in SSLC and should not have completed 28 years of age. Admittedly, in this case, petitioner who had not passed SSLC, was appointed by the Appointment Authority. He was permitted to continue in service for this long time.

7.Regulation 48 of Tamil Nadu State and Subordinate Service Rules reads



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as follows,

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“48. Notwithstanding anything contained in these rules or in the special rules, the Governor shall have power to deal with the case of any person or class of persons serving in a civil capacity under the Government of Tamil Nadu or of any person who has or of any class of persons who have served as aforesaid or any candidate or class of candidates for appointment to a service in such manner as may appear to him to be just and equitable: Provided that, where any such rule is applicable to the case of any person or class of persons, the case shall not be dealt with in any manner less favourable to him or them than that provided by that rule.”

8.Relying on this, petitioner had already submitted representation dated 13.06.2011 for relaxing the educational requirements and for setting aside the impugned order.

9.In the said circumstances, considering the fact that there is no fraud alleged against the petitioner that he misrepresented to get the employment, this Court is of the view that, petitioner may be directed

(i) to submit fresh representation in tune with his earlier representation dated 13.06.2011 within a period of three (03) months from the date of this order.



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(ii) On such submitting of fresh representation, respondents are directed

to consider the representation of the petitioner in the light of Regulation 48 of Tamil Nadu State and Subordinate Service Rules taking into consideration of the fact that petitioner had not committed any fraud in getting the employment and he has been in service from the date of appointment to till date and pass appropriate orders.

10. With the above directions, this Writ Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No
Speaking order/Non-speaking order
gd

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G.CHANDRASEKHARAN, J.

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