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W.P.No.20776 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.20776 of 2012
and M.P.No.1 of 2012

V.Dass

...Petitioner

-Vs-

1.The District Collector,
Vellore District,
Vellore.

2.The Block Development Officer,
Arakkonam,
Vellore District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus calling for the records of the 1st respondent passed on proceedings Na.Ka.No.BC1/7008/10 dated 14.09.2011 to quash the same and consequently direct the respondents to reinstate the petitioner in service together with backwages and attendance and consequential benefits.

For Petitioner : Mr.P.Krishnan

For Respondents : M/s.P.Charushree
for Mr.S.Ravikumar
Special Government Pleader



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ORDER

This writ petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order dated 14.09.2011, passed by the 1st respondent in Na.Ka.No.BC1/7008/10, and further direct the respondents to reinstate the petitioner in service together with backwages, attendance and other consequential benefits.

2. In compliance with this Court order dated 05.02.2024, Thiru.T.Sounder Rajan, Block Development Officer, Arakkonam Block, Ranipet District, is present before this Court, and his appearance is dispensed with.

3. The case of the petitioner is that he joined the service as Makkal Nala Paniyalar in Krishnapuram Village, Arakkonam Taluk, Vellore District. The petitioner is a pond cleaner under the scheme of the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) and the signatures of the labourers in the register were improper and irregular. Further, SI.No.125 namely, Amulu was absent on 31.07.2010, but the attendance register shows that the said Amulu was present, and the signature



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of Amulu was also forged by the petitioner. Subsequently, he was transferred from Krishnapuram to Valarpuram on 27.12.2006, and thereafter transferred from Valarpuram to Pudukesavaram Panchayat on 01.07.2010 and joined the duty on 13.07.2010. He was issued with a charge memo dated 16.08.2010 stating that he had not maintained attendance register serial Nos.34367 and 34368 during the period 30.07.2010 to 05.08.2011.

4. Learned counsel for the petitioner would submit that the 2nd count of the charge was that some person had signed very differently in place of S.No.158, namely, Kamal, and according to the petitioner, Kamal himself was present during the work and he himself had signed the register differently. The 3rd count of the charge is the signatures of S.No.177, namely, Srinivasan, on the first two days of the week were different from those of the last two days in the register. The 4th count of the charge is that some labourers have signed in the register and their identity cards, but they have given thumb impressions in the attendance register. The 5th count of the charge is that he restrained the progress of implementing the scheme, namely the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) and he has set a bad example as Public Welfare Officer. The



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6th count of the charge is that he has given a false counter of labourers working everyday in the Municipality during working hours whenever the supervisor has inspected the work spot, and that the scheme's name has been defamed due to frequent inspections by the higher officers and their strong condemnation.

5. Learned counsel would further submit that the charges framed against the petitioner are flimsy and that it is evident that they are false and baseless. During his service, he maintained a clean record of service. Further, without considering his explanation by order dated 28.02.2011, the 2nd respondent passed an order of suspension, suspending the petitioner from service on untenable grounds. Thereafter, the oral enquiry was held in his presence on 03.06.2011, and he was not given a fair and proper opportunity. Further, the documents relied on by the respondents in the said charge sheet dated 16.08.2010, nor during the oral enquiry conducted by the respondent were provided to the petitioner hence it clearly violate the principles of natural justice, and on the basis of the said enquiry, he was terminated from service by the 1st respondent by order dated 14.09.2011. Aggrieved by the order of termination, the petitioner has come forward with the present writ



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6. A counter affidavit was filed on behalf of the 2nd respondent and the relevant paragraphs are extracted hereunder:

- a) *I submit that in the Charge No.2 muster roll S.No.158 the petitioner negligently verified the identity card issued to Mr.Kamal. It was came to know that instead of Kamals signature two different preson signature were found.*
- b) *I submit that in the Charge No.03 S.No.177 Mr.Srinivasan signature was different from the signature a week before. The signature of the workers should be same in the daily attendance register. But in the instant case some other person signed instead of Srinivasan which is illegal and arbitrary.*
- c) *As far as the Mahatma Gandhi National Rural Employment Scheme the records in Register No.1, thumb impression were taken instead of signatures which is against the scheme.*

7. Learned counsel for the 2nd respondent would submit that the petitioner was appointed as Makkal Nala Paniyalar post on the basis of consolidated part-time worker. The duty of the petitioner is to maintain and record the attendance register of the workers who are employed through the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) and the petitioner has failed to discharge the duties entrusted to him. On 16.08.2010, the 2nd respondent issued show cause notice to the petitioner stating six charges against the petitioner. The petitioner has not maintained attendance register serial Nos.34367 and 34368 from 30.07.2010



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to 05.08.2010. It is to be noted that the signatures of the workers who worked for cleaning of ponds have been registered falsely and irregularly.

8. Learned counsel further submitted that the field inspection conducted by the Deputy Block Development Officer dated 13.08.2010 and on 31.07.2010, one Amulu, who was working under the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), was absent, and her absence has been marked in the identity card, but in the attendance register it has been entered as present, which is false and irregular.

9. Learned counsel further submitted that the petitioner is concealing the actual number of workers who are working under the scheme on a daily basis. The petitioner has misrepresented it by defeating the purpose of the scheme. On 31.10.2011, the District Collector and Project Officers, BDO conducted an inspection in the Arakkonam region. When inspecting the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) in Pudukesavaram Panchayat, the petitioner informed the office that 57 males and 111 females were working (in total 168 persons). But when the Block Development Officer inspected in person, the petitioner



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was absent, and also 16 other workers were absent. It is also submitted that only 12 women workers were turned up for work, whereas it has been misrepresented as 28 women workers have been present from Pazhaiyasozhavarum Adi Dravidar Colony. Hence, the petitioner has given false information.

10. Learned counsel further submitted that since charges have been proved against the petitioner in the inspection report of the Block Development Officer (BDO) on 01.07.2011, since the petitioner has not properly explained. He was found guilty of negligence in performing the duties and responsibilities attached to the post of Makkal Nala Paniyalar, effect of which the Government funds were misappropriated and was terminated from service by proceedings dated 14.09.2011 by the 1st respondent in Na.Ka.No.BC1/7008/10.

11. Heard both sides and perused the materials available on record.

12. In the case on hand, the allegation against the petitioner is that he did not maintain the attendance register serial Nos.34367 and 34368 from



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30.07.2010 to 05.08.2010 for a period of 5 days, in which he entered the names of three persons namely, Kamal, Srinivasan and Amulu, as present, which has caused monetary loss to the Government. The work is under the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS). The nature of the work is cleaning the pond, for which male and female workers are engaged under the scheme on a daily wage of Rs.35/- per person. he did not maintain the attendance register serial Nos.34367 and 34368 from 30.07.2010 to 05.08.2010 for a period of 5 days, in which he entered the names of three persons namely, Kamal, Srinivasan and Amulu, as present, which has caused monetary loss to the Government. **Hence, the main charge against him due to the wrong entry in the attendance register and the monetary loss suffered by the Government. Even assuming that the petitioner has not maintained the attendance register properly for a period of 5 days, for which charges were framed against him, the amount will be a very meagre amount since the wage is only Rs.35/- per day / per person since the duration is 5 days and for three persons, the amount will be $\text{Rs.35} \times 5 = \text{Rs.175/-}$ (for each person) $\times 3$ persons total Rs.525/- (Rupees Five Hundred and Twenty Five Only) is the monetary loss suffered by the Government and the punishment of**



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**termination is disproportionate to the gravity of delinquency committed
by the petitioner.**

13. In view of the above facts and circumstances of this case, the impugned order passed by the 1st respondent in Na.Ka.No.BC1/7008/10 dated 14.09.2011, is hereby quashed and the 1st respondent is directed to reinstate the petitioner into service together with all backwages, attendance and consequential benefits to which he is entitled as per law within a period of eight weeks from the date of receipt of a copy of the order.

14. In the result, the writ petition stands allowed with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

09.02.2024

cda
Index : Yes/No
Speaking/Non Speaking order



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J.SATHYA NARAYANA PRASAD, J.

cda

To

- 1.The District Collector,
Vellore District,
Vellore.
- 2.The Block Development Officer,
Arakkonam,
Vellore District.

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