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W.P. No.32615 of 2012



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-07-2024

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THE HONOURABLE MRS. JUSTICE R. KALAIMATHI

**W.P. No.32615 of 2012
and M.P. No.01 of 2012**

M. Sitarasu

... Petitioner

-vs-

1. The District Collector,
Nagapattinam,
Nagapattinam District.

2. The Principal Secretary/
Commissioner of Revenue Administration,
Chepauk, Chennai- 600 005.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent dated 12.11.2012 in Mu.Mu.No.31751/2011/A3 and quash the same and consequently direct the respondent to reinstate the petitioner with effect from 23.08.2004 with all monetary benefits and all consequential service benefits.

For Petitioner : No Appearance

For RR 1 & 2 : M/s. S. Rajesh,
(Government Advocate)



ORDER

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The writ petition is filed to call for the records of the first respondent dated 12.11.2012 in Mu.Mu.No.31751/2011/A3 and to quash the same and consequently to direct the respondent to reinstate the petitioner with effect from 23.08.2004 with all monetary benefits and all consequential service benefits.

2. Mr. S. Rajesh, learned Government Advocate appearing for the respondents is present. There is no representation on behalf of the petitioner.

3. The petitioner M. Sitarasu S/o. Mani has averred that he was appointed to the post of Junior Assistant at Taluk Office, Tharangampadi vide proceedings dated 10.07.2003. He further submitted that by proceedings dated 24.08.2004 in Na.Ka.No.4643/2004/A4 of the first respondent, he was dismissed from service on the ground that he had demanded illegal gratification and obtained a bribe of Rs.100/- for the issuance of OBC Certificate. He was arrested and sent to judicial custody under the Prevention of Corruption Act. It was further averred in the affidavit that prior to the dismissal from service, no show cause notice was issued and it is clear violation of constitutional



guarantees under Article 21 and Article 311 of the Constitution of India.

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4. It has been further averred in the affidavit that he was sentenced to imprisonment for one year by the learned Chief Judicial Magistrate, Nagapattinam in Special C.C.No.60 of 2005. Aggrieved by the said conviction, he preferred appeal in Criminal Appeal No.1074 of 2006, wherein this Court vide judgment dated 17.06.2011 acquitted the petitioner of all the charges levelled against him, therefore, against the order of dismissal from service, this writ petition is filed.

5. Mr. S. Rajesh, learned Government Advocate vehemently argued that the petitioner was appointed on temporary basis and consequent to the arrest of the petitioner under the Prevention of Corruption Act, 1988 and as he was under judicial custody for more than 48 hours, he was dismissed from service.

6. On careful perusal of the relevant proceedings in Na.Ka.2641/2003/A3 dated 10.07.2003, it appears that the petitioner was appointed under Tamil Nadu State and Subordinate Service Rules 10(a)(1).



Hence it is relevant to refer to the Rule 10(a)(i)(2)(v), “A Person appointed under clause (i), (ii) or (iv) shall not be regarded as a probationer in such service, class or category or be entitled by reason only of such appointment to any preferential claim to future appointment to such service, class or category. The services of a person appointed under clause (i), (ii) or (iv) shall be liable to be terminated by the appointing authority at any time without notice and without any reason, being assigned”.

7. Further it is inferable that, if a person is appointed under Rule 10(a)(i) of Tamil Nadu State and Subordinate Service Rules, he is liable to be terminated at any time without notice and without any reason being assigned. The petitioner as mentioned supra was appointed under Rule 10(a)(i) of Tamil Nadu State and Subordinate Service Rules and as he was arrested and in judicial custody for more than 48 hours, he was dismissed from service.

8. By a requisition dated 18.11.2011, the petitioner had given an application to re-appoint him and the same was rejected citing the above reasons, as his appointment was under under Rule 10(a)(i) of Tamil Nadu State and Subordinate Service Rules. Though he is liable to be terminated



without assigning any reason, the petitioner was under judicial custody in a case under Prevention of Corruption Act. Therefore he was dismissed from service.

I do not find any infirmity or perversity in the impugned order.

8. Based on the above said discussions, the writ petition is liable to be dismissed and thereby dismissed. There is no order as to cost. Consequently, connected miscellaneous petition, if any stands closed.

19-07-

2024

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

stn

To

1. The District Collector,
Nagapattinam,
Nagapattinam District.
2. The Principal Secretary/
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R. KALAIMATHI, J.

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