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W.P.No.33414 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

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THE HONOURABLE MRS. **JUSTICE R.KALAIMATHI**

W.P.No.33414 of 2012
and
M.P.No.2 of 2012

N.Mohammed Suhale

... Petitioner

vs.

1.The Director of Government Examinations,
College Road, Chennai 600 006.

2.The Joint Director of Government Examinations,
College Road, Chennai 600 006.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records connected with the proceedings issued in Na.Ka.No.006975/E1-1/2011 dated 11.10.2011 passed by the second respondent and Na.Ka.No.126207/E1-1/2012 dated 14.09.2012 passed by the 1st respondent and quash the same and consequently, direct the respondents to reinstate the petitioner into service with all attendant benefits.

For petitioner : M/s.S.Ilamvaludhi

For Respondents : Mr.T.M.Rajangam
Govt.Advocate



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ORDER

The proceedings No.126207/E-1-1/2012 dated 14.09.2012 passed by the first respondent, namely, Collector of Tiruvannamalai District is under challenge.

2. The petitioner submits that based on the charge memo issued by the Joint Director of Government Examinations (Personnel) in his Memo Na.Ka.No.006975/E1-1/2010 dated 15.06.2010 and based on the findings of the Inquiry Officer in Pro.Rc.No.006975/E1-1/2010 dated 09.11.2010, the Joint Director of Government Examinations (Personnel) dated 11.10.2011 dismissed him from service.

3. He would further submit that he was given compassionate appointment as Junior Assistant from 23.09.1999. She was subsequently promoted as Assistant on 07.03.2007 in the Department of Government Examinations. As per Rule 24 (A) of the Tamil Nadu Government Servants' Conduct Rules, 1973 and as per G.O.Ms.No.109, Personnel Administrative Reforms(A) Department dated 31.07.2006, the Director of Government Examinations issued No Objection Certificate to take up appointment in Bonatti Petroleum Oil Gas Contracting Company Ltd., Maharray Saudi, Saudi



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Arabia for a period of two years from 12.01.2008 by a proceedings in Rc.No.001242/E1-5/2008 dated 11.01.2008. Based on the said proceedings, the petitioner was relieved from the post of Assistant from 12.01.2008.

4. The petitioner would further submit that he availed Extra Ordinary Leave from 12.01.2010, the same was sent through post. He could not return and join as Assistant. He was placed under suspension from 12.01.2010 on the ground of unauthorized absence by order dated 04.03.2010. A Charge Memo was issued to the petitioner in Memo Na.Ka.No.00697/E1-1/2010 dated 15.06.2010 by the Joint Director of Government Examinations (Personnel) under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, in which enquiry was conducted and report was submitted. Under these circumstances, the Joint Director of Government Examinations (Personnel), dismissed the petitioner from service in his proceedings in Na.Ka.No.006975/E1-1/2011 dated 11.10.2011.

5. The petitioner further submits that aggrieved by the said order dated 11.10.2011, he preferred an appeal before the Director of Government Examinations(Personnel) and the same was rejected on 14.09.2012 by proceedings in Na.Ka.No.126207/E1-1/2012 which is bad in law. Hence, this writ petition.



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6. Heard Mr.S.Ilamvaludhi, learned counsel appearing for the petitioner and Mr.T.M.Rajangam, learned Government Advocate appearing for the respondents.

7. Mr.T.M.Rajangam, learned Government Advocate appearing for the respondents submitted that the petitioner has submitted an appeal on 03.07.2012 after a lapse of 8 months and 21 days wherein the appeal could not be considered and rejected.

8. By an order dated 14.09.2012, the Appellate Authority namely, the Director of Government Examinations has rejected the petitioner's appeal stating that the appeal was preferred belatedly, after a lapse of 8 months as opposed to the statutory time limit of 60 days. Therefore, the appeal was dismissed by order dated 11.10.2011. If the appeal is filed beyond the prescribed time limit, the petitioner should have obtained the order from this Court.

9. In the circumstances, the appeal should have been returned by stating the reasons. But the appeal is dismissed outrightly which is not correct. Therefore, in order to afford an opportunity to the petitioner, the petitioner shall prefer an appeal within a period of four weeks from the date of



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receipt of a copy of this order. The first respondent shall consider the appeal and pass necessary orders on merits, within a period of eight weeks from the date of receipt of appeal.

10. With this observations, this writ petition stands disposed of. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

25.06.2024

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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To

- 1.The Director of Government Examinations,
College Road, Chennai 600 006.
- 2.The Joint Director of Government Examinations,
College Road, Chennai 600 006.



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R.KALAIMATHI,J.

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