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W.P.No.21282 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.21282 of 2023

M.RAMAN

.. **Petitioner**

Vs.

THE DIRECTOR
KALAKSHETRA FOUNDATION,
THIRUVANMIYUR, CHENNAI 41

.. **Respondent**

Prayer: Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the respondent in Order F.No. A- 44/ 5/ 2020 dated 11.10.2022 terminating the petitioner from the service of the Kalakshetra Foundation from 11.10.2022 quash the same and consequently direct the respondent herein to reinstate the petitioner in service.

For the Petitioner : Mr.R.Thamaraiselvan

For the Respondent : M/s Menon, Karthik



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ORDER

This Writ Petition is filed challenging the order dated 11.10.2022 in and by which, the petitioner's services as Assistant Cook was dispensed with.

2.The petitioner was appointed as Assistant Cook in the respondent – Foundation with effect from 18.05.2022. At the time of joining, the petitioner has filled up an attestation form. As against the column 'whether any criminal case is pending against him', the petitioner has stated 'no'.

3.Later on, it turned out that the petitioner was involved in a criminal case in Crime No.289 of 2015, in which the occurrence is said to have taken place on 10.09.2015. It is alleged that the petitioner who was riding the two wheeler had caused an accident, due to his rash and negligent driving and caused the death of a person. Thereafter, the said case was charge sheeted in C.C.No.148 of 2018. The petitioner appeared before the Criminal Court and contested the trial and ultimately was acquitted by a judgment dated



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29.05.2023. Therefore, having involved in a criminal case in the year 2015, when the petitioner had filled up the attestation form on 01.06.2022, he had stated that he has not been involved in any criminal case. Thus, he had suppressed the said information and accordingly, the impugned order was passed.

4.*Mr.R.Thamaraiselvan*, the learned counsel appearing on behalf of the petitioner would submit that it is a case of accident. As a matter of fact, the petitioner suffered grievous injuries. In support thereof, the discharge summary is produced before this Court. The said discharge summary given by the Government Vellore Medical College Hospital, Vellore, shows that the petitioner was admitted as an inpatient on the same day, i.e., on 10.09.2015 and he was discharged from the hospital on 23.09.2015, after performance of surgery.

5.The learned counsel for the petitioner submits that when the petitioner was also involved in an accident, he never knew that the case itself was registered against him. Only after initiation of the present



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proceedings he came to know about the FIR. The petitioner after verifying the same, subsequently appeared before the Criminal Court and contested the trial and even there, he was acquitted. Therefore, the petitioner did not willfully and wantonly suppress the pendency of the criminal case.

6.Per contra, *Mr.Karthik*, would contend that even as per the evidence of the Investigating Officer, in the said criminal case in C.C. No.148 of 2018, he has deposed that after confirming that the petitioner/accused was responsible for the offence, he arrested him on 13.09.2015 at about 01.00 pm.,. When the petitioner was arrested in the year 2015, his statement that he was never aware of the FIR cannot be believed. Thus, he had willfully suppressed about the criminal case. The respondent has rightly passed the impugned order.

7.In reply, the learned counsel for the petitioner by drawing this Court's attention to the judgment of the Criminal Court in C.C.No.148 of 2018 would submit that the Criminal Court in its judgment dated 29.05.2023, after going through the records, in column No.11 of the tabular



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column of the judgment, recorded as if the bail was granted on 10.09.2015, whereas, the Investigating Officer has stated in the evidence that he arrested the petitioner on 13.09.2015.

8.I have considered the rival submissions made on either side and perused the material records of the case.

9.At the outset, it can be seen that the offence is that of causing an accident. Thus, not of moral turpitude. It has to be seen that whether the petitioner has suppressed the pendency of the criminal case registered against him. From the medical records, it can be seen that the petitioner was also grievously injured and he was admitted in the hospital on the same day. Therefore, the petitioner's contention that he did not know about the case being registered against him is believable. The only fact that is pointed out by the learned counsel for the respondent is that in the deposition of the Investigating Officer, that he arrested the petitioner on 13.09.2015. While his deposition says that the arrest was on 13.09.2015, the records available before the Criminal Court shows that the bail was granted on 10.09.2015.



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There is a material contradiction. Further, the Criminal Court also did not believe the evidence of the prosecution and ultimately acquitted the petitioner.

10. In that view of the matter, the case of the petitioner that he came to know about the pendency of the criminal case only after the present proceedings being initiated, cannot be ruled out. This, is a case of discharge simpliciter without any opportunity or enquiry. Therefore, I am of the view that the petitioner has not suppressed about the criminal case and the impugned order is not sustainable. However, considering the fact that the petitioner did not work for all these days, he will not be entitled for any backwages, on the principles of 'no work no pay'.

11. In view thereof, the Writ Petition is disposed of on the following terms:

(i) the impugned order dated 11.10.2022 passed by the respondent in F.No. A- 44/ 5/ 2020 shall stand quashed;



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(ii) The respondent is directed to reinstate the petitioner in the same post, within a period of eight weeks from the date of receipt of a copy of this order and the petitioner is permitted to undergo the remaining period of probation, if any;

(iii) The petitioner will be entitled for all the service benefits, such as continuity of service and he will not be entitled for backwages;

(iv) The petitioner will be entitled for wages only from the date of his reinstatement.

(v) No costs.

01.04.2024

Index : Yes
Neutral Citation : Yes
Speaking order : Yes

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To
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D.BHARATHA CHAKRAVARTHY, J.

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