



WA.No.1406/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 27.09.2024

Delivered on .10.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

WA.No.1406/2024 & CMP.No.10055/2024

1.The Commissioner
Food Safety Department
No.359, Anna Salai, DMS Complex
Teynampet, Chennai 600 006.

2.The Designated Officer
Office of the District Food Safety Office
Old Nattamai Building Complex,
Salem 636 001.

... Appellants /
Respondents

Vs.

1.Mr.Jagannathan
2.The Director of Public Health & Preventive
Medicine, No.359, Anna Salai, DMS Complex
Teynampet, Chennai 600006.

... R1 / Writ
Petitioner

... R2 / R3 in
Writ Petition



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Prayer : Writ Appeal filed under Clause 15 of Letters Patent against the order dated 28.07.2023 in WP.No.24703/2018.

For Appellants : Mr.P.Kumaresan
Additional Advocate General
assisted by Mrs.R.Anitha, Spl.GP

For R1 : Mr.M.Vijayan, Senior counsel for
Mr.K.Kulandaivelu

JUDGMENT

S.S.SUNDAR, J.,

(1) Respondents 1 and 2 in the writ petition in WP.No.24703/2018 filed by the 1st respondent, are the appellants in the above writ appeal and the writ appeal is directed against the order of the learned Single Judge dated 28.07.2023 allowing the writ petition filed by the 1st respondent herein, to quash the proceedings of the 1st appellant herein dated 14.02.2018 and the consequential proceedings of the 2nd appellant dated 20.02.2018 and further, to direct the appellants to continue the writ petitioner/1st respondent in the 1st appellant Department as it was done in the case of



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other Food Safety Officers appointed along with the 1st respondent/writ petitioner and for other reliefs including disbursement of pay by the 1st appellant herein.

(2) Brief facts that are necessary for the disposal of this writ appeal are as follows:

(3) The 1st respondent herein was originally working as Health Inspector Grade-I with the 2nd respondent herein who is the 3rd respondent in the writ petition. When Food Safety Department was constituted, the 1st respondent/writ petitioner was appointed as Food Safety Officer on 20.09.2011 for Salem Block. Vide proceedings of the Deputy Director of Health Services, Salem, the 1st respondent/writ petitioner was relieved from the post of Health Inspector Grade-I and was asked to join duty as Food Safety Officer on the same day. Similarly, several other persons who were also working as Health Inspectors Grade-I, were appointed as Food Safety Officers and all the appointments came to be notified vide G.O.Ms.No.151, dated 20.04.2012.

(4) It is the specific case of the 1st respondent/writ petitioner that he became a full time employee of the 1st appellant and he was paid salary by the 1st



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appellant. However, the 1st respondent/writ petitioner received a communication from the 1st appellant [1st respondent in the writ petition] directing the 2nd appellant to relieve the 1st respondent/writ petitioner from the post of Food Safety Officer and the 1st respondent/writ petitioner to report to the 1st appellant on 20.02.2018. In the said communication, it was alleged that the 1st respondent/writ petitioner failed to monitor and stop adulterated tea dust and thereby, did not perform his duty satisfactorily. Since this communication issued to the 1st respondent/writ petitioner was without issuing any show cause notice to him or calling for an explanation from the 1st respondent/writ petitioner, the 1st respondent filed the writ petition challenging the order of 1st appellant and the consequential proceedings of the 2nd appellant in WP.No.24703/2018.

(5)The writ petition was allowed by the learned Single Judge on the main ground that the impugned order directing the 1st respondent/writ petitioner to report to the 1st appellant herein in view of certain deficiencies in the services of the 1st respondent/writ petitioner, is unsustainable and the same is in violation of principles of natural justice. Aggrieved by the same, respondents 1 and 2 in the writ petition have



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preferred the present writ appeal.

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(6)Learned Additional Advocate General appearing for the appellants submitted that the 1st respondent/writ petitioner had been appointed as Food Safety Officer for Salem Block by the Commissioner of Food Safety vide proceedings dated 20.09.2011 only on deputation basis. Since the 2nd respondent was always considered as the parent Department of the 1st respondent/writ petitioner, the impugned order was issued transferring the 1st respondent/writ petitioner to his parent Department. Learned Additional Advocate General further submitted that in view of the deficiencies pointed out as against 1st respondent/writ petitioner, the appellants thought it fit to send the 1st respondent/writ petitioner to his parent Department/2nd respondent herein and therefore, the 1st respondent/writ petitioner is not entitled to any salary as he did not do any work either in the 1st appellant's office or in the 2nd respondent's office. Learned Additional Advocate General referring to the irregularities pointed out in the impugned order, submitted that the order of learned Single Judge in allowing the writ petition is unsustainable. He also pointed out that this Court while entertaining the writ petition, did



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not grant any interim stay and therefore, the 1st respondent/writ petitioner who ought to have reported to his parent Department after posting orders, failed to report to duty. Since the 1st respondent/writ petitioner is bound to obey the direction and he cannot take advantage of his own wrong to claim salary from the appellants.

(7)Learned counsel appearing for the 1st respondent/writ petitioner however pointed out from several communications that the 1st respondent/writ petitioner was appointed as Food Safety Officer vide proceedings of the 1st appellant dated 20.09.2011 and in the said communication, there was no reference to any lien so as to treat the 1st respondent/writ petitioner as a person attached to the 2nd respondent herein.

(8)Therefore, the main issue that arise for consideration in this writ appeal is whether the 1st respondent/writ petitioner was deputed as Food Safety Officer or appointed in the office of 1st appellant Department as a permanent employee of appellants. The next question is whether the orders impugned in the writ petition are liable to be set aside on the ground of violation of principles of natural justice.

(9)From the proceedings of the 1st appellant dated 20.09.2011, the 1st



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respondent/writ petitioner was appointed as Food Safety Officer along with 384 others. From the order of appointment, there is no indication to infer deputation. As a matter of fact, the proceedings dated 22.12.2011, vide G.O.Ms.No.347, Health and Family Welfare Department, would show that the Government on the basis of the recommendation and proposals of the Director of Public Health and Preventive Medicine, created a new Department called "Tamil Nadu Food Safety and Drug Administration [TNFS & DA] by integrating the existing Food Wing and Directorate of Public Health and Preventive Medicine and Drug Control Department. The word "integration" gives an indication that all the Food Safety Officers who were named in the order of appointment, got permanently absorbed in the 1st appellant Department. Therefore, the contention of the appellants cannot be countenanced.

(10)After the creation of the new Department called TNFS&DA Department to implement the Food Safety and Standards Act, 1954, the post of Food Inspector may not survive. From the communication dated 01.10.2012 of the 1st appellant to the 2nd respondent herein, in view of the creation of 584 posts of Food Safety Officers in the Food Safety Wing, this Court has



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seen that the Food Safety Department was integrated with the Health

Department. Therefore, the contention of the learned Additional Advocate General that the writ petitioner was deputed to Food Safety Department and the 1st respondent/writ petitioner was also holding lien to conclude that the 1st respondent/writ petitioner was bound to join the parent Department, namely, 2nd respondent herein, is not acceptable.

(11) From the order that is impugned in the writ petition, 1st respondent/writ petitioner was sent to 2nd respondent Department only on the basis of negligence and inefficiency against the 1st respondent/writ petitioner. Therefore, the learned Single Judge is perfectly right in holding that the impugned order directing the 1st respondent/writ petitioner who was hitherto working in the 1st appellant to the 2nd respondent pointing out certain deficiency in service, is unsustainable. When an order affecting the civil rights of the person is based on certain adverse findings against the individual, the 1st respondent/writ petitioner ought to have been given proper opportunity to put forth his case. This is possible only if a show cause notice is issued and thereafter, action is taken considering the



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objections if any, by the 1st respondent/writ petitioner. Learned Single Judge categorically found that the impugned order is in violation of principles of natural justice.

(12) This Court, on the admitted facts and in view of specific findings on the issue given by the learned Single Judge for allowing the writ petition, finds no irregularity or illegality in the order of learned Single Judge.

(13) In the result, the writ appeal stands **dismissed as devoid of any merits.**

No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [K.R.S., J.]
20.08.2024

AP
Internet : Yes
Neutral Citation: Yes



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To

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Food Safety Department

No.359, Anna Salai, DMS Complex

Teynampet, Chennai 600 006.

2.The Designated Officer

Office of the District Food Safety Office

Old Nattamai Building Complex,

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3.The Director of Public Health & Preventive

Medicine, No.359, Anna Salai, DMS Complex

Teynampet, Chennai 600006



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S.S. SUNDAR, J.,
and
K.RAJASEKAR, J.,

AP

Pre Delivery Judgment in

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.10.2024