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W.A.No. 894 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.A.No.894 of 2021
and C.M.P.No.5181 of 2021

1. The Superintendent of Police,
District Police Officer,
Kanchipuram District @ Kanchipuram.

2. The Deputy Inspector General of Police,
Kanchipuram Range,
Kanchipuram.

3. The Director General of Police,
Tamil Nadu, Chennai-600 004.

... Appellants/Respondents

-VS-

C.Elumalai

... Respondent / Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to allow the Writ Appeal by setting aside the order dated 23.08.2017 made in W.P.No.12604 of 2013.

For Appellants : Mr.M.Bindran
Addl. Govt. Pleader

For Respondent : Mr.K.Karthik
For Mr.G.K.Loganathan

J U D G M E N T



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(By D.Krishnakumar,J.)

This Writ Appeal has been filed, challenging the order of the learned Single

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Judge dated 23.08.2017 made in W.P.No.12604 of 2013, by which the Writ Petition filed by the Writ Petitioner / Respondent herein stood allowed, with a direction to reinstate him in service with 50% of the backwages, etc.

2. The case of the Appellants is that the Respondent was appointed as Sweeper of Kanchipuram District and he had discontinued 5th standard. Pursuant to his enrollment in the Employment Exchange, he was appointed as Sweeper in the Government service, for which, 8th standard pass is the minimum qualification. On verification, it was found that the respondent herein, by way of forged certificate, joined the service, suppressing the fact that he did not pass even the 5th standard, which had resulted in preferring criminal complaint against him in Crime No.74 of 2000 for offences under Sections 468 and 471 IPC before District Crime Branch, Kanchipuram District. It is further case of the appellants that the respondent himself admitted that he had joined the service on production of a forged document, due to which, he was placed under suspension on 29.05.2001 and departmental proceedings had been initiated under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules ['TNCS (D&A) Rules']. Consequent to the initiation of departmental proceedings, enquiry was conducted and the respondent did not defend his case effectively in the departmental



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enquiry and after completion of the enquiry, enquiry report was submitted, on the basis of which, final orders were passed by dismissing the respondent from service. Challenging the order of dismissal, he had filed W.P.No.12604 of 2013 and the order passed in the said Writ Petition is under challenge in this Writ Appeal.

3. Learned Additional Government Pleader has submitted that in the criminal case in C.C.No.398 of 2002 on the file of the learned Judicial Magistrate No.I, Poonamallee, the respondent got acquittal on the ground that the prosecution failed to produce evidence to the extent that the certificate produced by him was a bogus one and did not establish the charges beyond reasonable doubt as well. According to him, the respondent attained the age of superannuation and the question of reinstatement does not arise at all. It is stated that the respondent was dismissed from service much prior to the judgment rendered in the criminal case, after conducting a full fledged departmental enquiry and though notice had been served upon him, it was the respondent, who did choose to appear before the enquiry officer and therefore, the order passed by the learned Single Judge needs interference by this Court.

4. Learned counsel appearing for the respondent vehemently contended that as per the Basic Service Rules, for the post of Sweeper, those, who are well versed with the capacity to read and write Tamil are entitled to apply and as such, prescription of 8th



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standard as the qualification for applying to the post of Sweeper is unwarranted. Hence, the order of dismissal is highly unsustainable and the respondent is entitled to the relief of reinstatement, as rightly observed by the learned Single Judge.

5. Heard the learned Additional Government Pleader for the appellants and the learned counsel for the respondent and perused the material documents available on record.

6. The respondent herein was selected and appointed as Sweeper through Employment Exchange. It was alleged that the respondent, having failed in the 5th standard, projected as if he had completed 8th standard and produced a fake certificate to enter into the Government service. The respondent was acquitted in the criminal case on the ground of benefit of doubt. It is pertinent to state here that a criminal case should be proved beyond reasonable doubt by adducing oral and documentary evidence, whereas it is sufficient that the charges in the departmental proceedings can be established on the basis of preponderance of probabilities. According to the appellants, though sufficient opportunity was given to the respondent, he had neither adduced any documents nor given satisfactory explanation before the Enquiry Officer, which had resulted in inviting the order of dismissal as early as on 02.04.2002 and the said order has not been challenged within a reasonable time. It could be seen from the records that the order of



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dismissal was put to challenge only after the acquittal from the criminal case and therefore, the writ petition itself is hit by delay and laches. Moreover, the respondent had already attained the age of superannuation and he is not entitled for reinstatement in service and the order passed in the Writ Petition is liable to be set aside.

7. In the result, finding substance and force in the argument advanced by the appellants, the Writ Appeal is allowed and the order dated 23.08.2017 passed by the learned Single Judge in W.P.No.12604 of 2013 is hereby set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K., J.,]

[K.B., J]

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Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order
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D.KRISHNAKUMAR,J.,

AND

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