



W.P.(MD) No.14154 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDERS RESERVED ON : 19.02.2024

ORDERS PRONOUNCED ON : 26.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.14154 of 2020

and

W.M.P.(MD) Nos.11804 and 11807 of 2020

C.Sathesh Kumar

... Petitioner

Vs.

1.The Superintendent of Police,
Kanyakumari District at
Nagercoil.

2.The Inspector of Police,
Thuckalay Police Station,
Thuckalay,
Kanyakumari District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in C.No.G3/6582/2020/D.O.No.239/2020 dated 19.03.2020 passed by the 1st respondent herein and quash the same as illegal and unconstitutional and consequently direct the 1st respondent to reinstate the



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petitioner as Scout Master for the Boys and Girls Club, Thuckalay, Kanyakumari District.

For Petitioner : Mr.T.Sundaravadanam

For Respondents : Mr.N.Ga.Natraj
Government Advocate

ORDER

The petitioner herein was appointed as Scout Master through an order bearing D.O.No.771/2015/G3/8622/2015, dated 03.07.2015 basing upon the nomination made by Respondent No.2 herein on payment of an honorarium of Rs.2,900/-. While he was working as such, the petitioner was involved in Crime No.53 of 2020 of Thuckalay Police Station under Sections 448 and 379 of IPC. In view of the same, the 2nd respondent submitted a report to the 1st respondent about the involvement of the petitioner in the said crime by submitting a report dated 06.02.2020. In the meanwhile, the petitioner and other accused in the said crime approached this Court by filing CrI.O.P.(MD) Nos.2022 and 2023 of 2020 seeking anticipatory bail and during the process of adjudication of the said criminal



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original petitions, the matter was settled between Accused No.1 and the defacto complainant, who were the estranged husband and wife subject to payment of Rs.2,00,000/- by Accused No.1 in favour of the defacto complainant. The petitioner was arrayed as Accused No.2 in the said crime. Thus, the said crime ended in compromise by virtue of the order passed by this Court on 25.02.2020.

2. The 1st respondent herein on having received the report dated 06.02.2020 from the 2nd respondent, passed the impugned order dated 19.03.2020 terminating the petitioner from the post of Scout Master with immediate effect. The said order of termination reads as under:

“You were appointed as Scout Master for the boys and Girls Club in Thuckalay as per this office order in D.No.771/2015, C.No.G3/8622/2015, dated 3.7.2015 reference 1st cited and you are being paid monthly honorarium of Rs.2900/- per month continuously.

2. Now it is come to notice that, you have involved in Thuckalay P.S. Cr.No.53/2020 u/s.448, 379 IPC as accused No.2 and the case is under investigation as per the report of Inspector of Police, Thuckalay reference 2nd



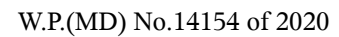
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cited. At this juncture it is decided to terminate from post of Scout Master for the boys and Girls Club in Thuckalay as you have involved in a criminal case and also as your conduct, character, activities and integrity are suspected one.

3. Therefore, Thiru C. Satheesh Kumar, Scout Master of the Boys and Girls Club, Thuckalay is Terminated from the Scout Master Post with immediate effect.”

3. From the above, it is noticed that the services of the petitioner were terminated because the petitioner was arrayed as Accused No.2 in Crime No.53/2020. In addition to that, the 1st respondent also stated that the said termination is also in view of the conduct, character, activities and integrity of the petitioner are suspected one. Thus, while passing the impugned order removing the petitioner from the post of Scout Master, a stigma is cast on the petitioner about his conduct, character and integrity.

4. It is settled law that any order passed by any authority governed by Rule of Law causing stigma or prejudice to any party is required to follow certain basic principles such as principles of natural justice and



5. As already noted above, as on the date, Crime No.53 of 2020 in which the petitioner was involved as an Accused No.2, has come to an end prior to the order dated 25.02.2020 passed by this Court, i.e., prior to the passing of the impugned order. That is a relevant factor, if taken into the notice of Respondent No.1 before passing the impugned order. Respondent No.1 may not have issued the impugned order or at least



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would not have made a stigmatic comments against the petitioner in the impugned order.

6. The contention of the learned counsel for the petitioner that the petitioner is entitled for protection under Article 311(2) of the Constitution of India and a regular enquiry is required to be conducted before removing the petitioner from service, by placing reliance on a decision of a learned Division Bench of this Court *M.Durairajan vs. Union of India and others* reported in **2014 4 MLJ 404** is concerned, in the considered view of this Court, the said decision has no application to the case on hand. The petitioner herein is not a person engaged on wages or salary either on temporary basis or permanent basis. On the other hand, the very appointment order issued in favour of the petitioner itself speaks that he will be paid only an honorarium, but not salary or wage. Therefore, the question of treating the petitioner as temporary employee or employee having protection under Article 311(2) of the Constitution of India, does not arise. Hence, the said decision has no application to the case on hand.



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7. Further, from the affidavit filed in support of the writ petition as well as the counter affidavit, it is evident that the petitioner was involved in yet another crime *viz.*, Crime No.638/2020 of the same Police Station.

8. In the light of the above, in the considered view of this Court, the impugned order cannot be sustained, as the same would result in causing a stigma on the petitioner and accordingly, the same is set aside. However, this Court is not inclined to order reinstatement of the petitioner consequent upon the setting aside of the impugned order, as the petitioner is admittedly involved in yet another crime and also of the fact that the involvement of the petitioner in Crime No.53/2020 is also a fact and mere compromise of the matter before this Court will not have the effect of giving a clean chit in favour of the petitioner. Therefore, in the considered view of this Court, this is a matter which can be better considered by Respondent No.1 by duly taking into consideration the over all circumstances as to whether the petitioner is fit to be reinstated and continued in the post of Scout Master or not.



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9. Accordingly, this Writ Petition is partly allowed setting aside the impugned order in C.No.G3/6582/2020/D.O.No.239/2020, dated 19.03.2020 and granting liberty to the petitioner to submit a representation before Respondent No.1 seeking his reinstatement into service as Scout Master within a period of four weeks from the date of receipt of a copy of this order and on submission of such representation, Respondent No.1 shall consider the same and pass appropriate orders in accordance with law within a further period of eight weeks. No costs. Consequently, connected miscellaneous petitions are closed.

26.03.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes

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MUMMINENI SUDHEER KUMAR, J.

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Pre-delivery Order made in
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26.03.2024