



WP(MD) No.16666 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.16666 of 2024

and

W.M.P(MD)Nos.14428 & 14430 of 2024

M.Prasanna

... Petitioner

Vs.

1. The Agricultural Production Commissioner Cum

Principal Secretary to the Government,

Agriculture Department,

Fort St. George,

Chennai - 600 009.

2. The Director of Agriculture,

Office of the Director of Agriculture,

Chepauk,

Chennai - 600 005.

3.The Project Director,

ATMA / Joint Director of Agriculture,

Office of the Joint Director of Agriculture,

Madurai.



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4. New Life Placements Private Limited,
Represented by its Authorised Signatory,
Regd. Office 41-42, Kailash Arcade,
Heber Road,
Bheem Nagar,
Trichy - 620 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the 3rd respondent in Ka. No. ATMA/18169/2021 dated 05.12.2022 and quash the same as illegal and consequently directing the respondents to reinstate the petitioner into service as Assistant Technology Manager with all back-wages.

For Petitioner : Mr.G.Saravanakumar

For Respondents : Mr.T.Amjad Khan – for R1 to R3
Government Advocate

ORDER

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus, challenging the impugned order dated 05.12.2022 of the 3rd respondent and consequently directing the



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respondents to reinstate the petitioner into service as Assistant Technology Manager with all back-wages.

2. Heard Mr.G.Saravanakumar, learned counsel appearing for the petitioner and Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents 1 to 3.

3. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

4. The petitioner was working as a Technical Assistant in ATMA scheme of the Central Government. He was terminated from service in view of the criminal case filed against him by the CBCID in Crime No.5 of 2020. Earlier, the petitioner filed a writ petition in W.P(MD)No.24047 of 2022 challenging the order of termination and the same was dismissed. However, an observation has been made that the petitioner name is deleted from the final report or if he is discharged or if he otherwise comes clean with the criminal trial, he will be reinstated.



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5. However, it is submitted by the learned counsel for the petitioner that similarly placed persons have already filed a petition in W.P.Nos.12284 & 12153 of 2020 seeking similar relief and the writ petitions have been allowed and hence, the petitioner should also be extended with the similar relief. But the petitioner's representation in this regard has not been considered favourably and the impugned order came to be passed on 05.12.2022.

6. It is to be noted that the order which the petitioner summons to his support is dated 21.12.2023, but the impugned order has been passed even prior to the said writ petition. So far, the petitioner has not stated about the outcome of the criminal case registered against him. As far as the case involved in W.P.Nos.12284 and 12153 of 2020 dated 21.12.2023 is concerned, there is no allegation of any pending criminal case. The earlier order of this Court held in W.P.No.13803 of 2022, dated 26.06.2023 has been followed (K.Jayakumar Vs. The Chairman- ATMA/District Collector and others).

7. But the learned counsel for the petitioner submitted that



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the names of those persons who had availed the benefit of the above order also figures in the charge sheet. In the said order, it seems that the Court has taken cognizance of some alleged fraudulent activity on the part of the petitioners and made an observation as under:

“8. The specific stand of the petitioner is that he is not responsible for updating or uploading the details of the beneficiary in the relevant web portal. Therefore, if any fraud has been committed, he is not responsible for the same. The defence of the petitioner may be well-founded or ill-founded. For a moment, I am not on that. The petitioner has been charged with involvement in fraudulent activity. It definitely casts stigma on the petitioner. When a Governmental authority casts stigma on a person, it cannot be done without complying with the elementary principles of natural justice. Since the petitioner is only a scheme employee, there may not be any need for conducting any elaborate domestic enquiry or departmental enquiry as done in the case of regular Governmental employee. But then, there must be observance with the principles of natural justice at a minimum level. Even this has not been done in this case. It is for this reason I constrained to interfere. The order impugned in the writ petition is accordingly set aside.



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9. *Considering the fact that the petitioner was only a scheme employee, the question of paying backwages does not arise. The learned counsel appearing for the petitioner draws my attention to the decision of the Hon'ble Supreme Court reported in (2009) 6 SCC 611 (Mohd.Abdul Kadir Vs. Director General of Police, Assam). It has been held that when the ad hoc appointment is under a scheme and is in accordance with the selection process prescribed by the scheme, there is no reason why those appointed under the scheme should not be continued as long as the scheme continues.*

10. *If ATMA Scheme is still in force, the petitioner shall be issued with an order of appointment permitting him to reappoint. Such an order will be issued by the second respondent within a period of five weeks from the date of receipt of a copy of this order."*

8. So the limited point on which the petitioner's termination was set aside is that they have not been given with prior notice, even though they need not be subjected to domestic enquiry as similar as that of regular employees. So the order of reinstatement has been made taking into account of their contractual nature of employment, however,



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terminating them with stigma without giving them any prior notice.

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9. Now it is stated that the criminal case pending against the petitioner has been charge-sheeted and pending before the Criminal Court in C.C.No.1172 of 2023 on the file of the Judicial Magistrate No.I, Madurai. However, in the charge-sheet the names of the petitioner involved in W.P(MD)No.13803 of 2020 and the petitioner's involved in subsequent writ petitions in W.P.No.12284 and 12153 of 2020 are also found place. In case, they have been reinstated consequent to the earlier orders of this Court, the similar relief can be given to this writ petitioner also irrespective of earlier order passed in W.P.(MD)No.24047 of 2022. However, if the petitioners who have got the favourable orders ought not to be reinstated, then the earlier order passed in W.P.(MD)No.24047 of 2022 will remain in force.

10. However, learned Government Advocate submitted that challenging the above orders granted in favour of few of the petitioners, the Government has preferred an appeal and in which an order of interim stay has been granted.



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11. In such case, the entitlement of the petitioner to get reinstated would depend upon the outcome of the writ appeal.

12. With the above observation, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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



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To
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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.16666 of 2024

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