



W.P.(MD).Nos.20954 and 20955 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).Nos.20954 and 20955 of 2021

and

W.M.P.(MD)Nos.17558 and 17560 of 2021

—

Kalavathi

... Petitioner

Vs.

1.The District Collector,
Pudukkottai District,
Pudukkottai.

2.The Block Development Officer,
Manalmelkudi Panchayat Union,
Manamelkudi,
Pudukkottai District.

... Respondents

Prayer in W.P.(MD)No.20954 of 2021 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the Impugned order in Na.Ka.No.S/3860/2020, dated 17.05.2021, by the 1st respondent herein and quash the same and consequently directing the respondents to reinstate the petitioner in service.



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Prayer in W.P.(MD)No.20955 of 2021 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the Impugned Recovery order in Na.Ka.No.A1/811/2019, dated 24.05.2021, by the 2nd respondent herein and quash the same.

For Petitioner : Mr.Mohammed Imran
For Ajmal Associates

For Respondents : Mr.D.Gandhiraj,
Special Government Pleader

COMMON ORDER

The prayer of the writ petitions are as follows:

These writ petitions have been filed to quash the Impugned orders dated 17.05.2021 and 24.05.2021 passed by the respondents 1 and 2 respectively and consequently directing the respondents to reinstate the petitioner in service.

2. The facts which led to the filing of these writ petitions are as follows:

The petitioner was appointed as Block Co-ordinator at Manalmelkudi Panchayat Union office of Pudukkottai District, during 2007 temporarily under consolidated salary. The nature of the job assigned to the petitioner is to create



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public health awareness among the village folks and to conduct health awareness door to door propagation within the limit of Manalmelkudi Panchayat Union Office. During the financial years 2011 - 2012, 2012 - 2013 at the instance of the then Block Development Officer, Manalmelkudi Panchayat Union Office, 278 Toilets facilities came to be sanctioned for individual beneficiaries providing that Rs.3200/- (Rupees Three Thousand and Two Hundred only) was given to every beneficiary for constructing Toilets within the said panchayat. The said scheme was completely executed by the then Block Development Officer and the Block Coordinator do not have any direct or indirect role of execution of the said scheme. However, the impugned dismissal order dated 17.05.2021 vide proceedings in Na.Ka.No.S/3860/2020 came to be issued by the 1st respondent without any details and the same is a non speaking order. A consequential recovery order vide proceedings bearing Na.Ka.No.A1/811/2019 dated 24.05.2021 of the 2nd respondent came to be issued. Challenging the aforesaid orders, these writ petitions came to be filed.

3. The learned counsel appearing for the petitioner, Mr.Mohammed Imran vehemently submitted that both the orders of termination and recovery



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are bad in the eye of law since the same was passed by the respondents 1 and 2 respectively without giving an opportunity of hearing and without putting the petitioner on notice. Since the order of termination and the consequential recovery order are obviously stigmatic which would reflect on her entire future, the learned counsel appearing for the petitioner pressed for interference of this Court requiring to quash the impugned orders.

4. The 2nd respondent has filed a counter affidavit and the learned Special Government Pleader Mr.D.Gandhiraj submitted that, the petitioner has misappropriated the Central Government fund which has been allocated for the village folks for their basic necessities especially construction of Toilets and such kind of corruption has to be handled with iron hands and the action initiated upon the petitioner was a result of an enquiry conducted by the Department of Vigilance and Anti Corruption based on the statement of 88 witnesses and hence, categorically submitted that the impugned order cannot be interfered with and pressed for dismissal of the writ petition.



5. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents. Carefully perused the materials available on record.

6. The Hon'ble Supreme Court in the case of **Hariram Maurya Vs. Union of India and others reported in (2006) SCC 167** has dealt with a case of bribery committed by a temporary employee whose services were terminated without holding an enquiry and the relevant portion of the same is extracted as follows:

“3. From the order of termination Annexure P-7, it appears that the same refers to the show-cause notice dated 20.08.2002 which is to be found at Annexure P-5. It is stated therein that the appellant demanded kickback with a view to help the complainant to get a favourable order in the pension matter. That being so, there was a clear charge of bribery levelled against the appellant. No doubt, the appellant was a temporary employee, but if he is sought to be removed on the ground that he was guilty of the charge of bribery, it becomes necessary for the respondent Union of India to hold an inquiry and thereafter to act in accordance with law. In this case, admittedly, no inquiry was conducted, and that is obvious even from Annexure P-7, the letter described as disengagement of casual labour. We, therefore, allow this appeal and set aside the order of the High Court as also the



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order of termination Annexure P-7 dated 30.09.2002. This, however, will not prevent the respondents from taking action in accordance with law.”

7. In yet another case in Union of India and Others vs. Mahveer C.Singhvi reported in (2010) 7 MLJ 684 (SC), the Hon'ble Apex Court has dealt with a similar case of probationer who was terminated without giving him an opportunity for defending himself. The ratio *decidendi* arrived at in the aforesaid case, by the Hon'ble Apex Court is extracted as follows:

“ if an order of discharge of a probationer is passed as a punitive measure, without giving him an opportunity of defending himself the same would be invalid and liable to be quashed.”

8. No doubt the petitioner is a Block Coordinator, appointed temporarily in a consolidated pay. However, a critical perusal of the impugned orders of the 1st and 2nd respondents respectively would reveal that the same are non speaking orders passed without giving the petitioner an opportunity of hearing even without elaborating the reasons for terminating the petitioner. However, only in



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the subject it has been mentioned that the said orders came to be issued on the conclusion of the Vigilance and Anti Corruption Department.

9. In view of the same, I am of the considered view that, the respondents ought to have furnished the complete copy of the findings of the Vigilance and Anti Corruption Department as against her before passing a stigmatic order of termination and recovery by means of a speaking order, after affording an opportunity of hearing to the petitioner. Since the impugned orders came to be passed without following the established procedures of law of giving an opportunity to the delinquent, the impugned orders are hereby quashed and the matter is remanded back to the file of the respondents 1 and 2 with the precise direction to afford an opportunity to the petitioner afresh and thereafter, pass appropriate orders in accordance with law within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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10. Accordingly, these writ petitions stand allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

03.07.2024

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

To

- 1.The District Collector,
Pudukkottai District,
Pudukkottai.
- 2.The Block Development Officer,
Manalmelkudi Panchayat Union,
Manamelkudi,
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L.VICTORIA GOWRI, J.

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