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W.P.(MD) No.3868 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.3868 of 2017
and
W.M.P.(MD) No.3046 of 2017

R.Palaniammal

... Petitioner

-vs-

- 1.The Secretary to Government
Education Department
Government Examinations
Fort St.George, Chennai
- 2.The Joint Director (Personnel)
Government Examinations
Chennai-600 006
- 3.The District Collector
Tirunelveli District
Tirunelveli
- 4.The Regional Deputy Director
Government Examinations
Tirunelveli-1
- 5.The Public Information Officer
Assistant Elementary Educational Office
Vasudevanallur, Tirunelveli

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned order in Na.Ka.No.002708/A1/11, dated 13.05.2016, on the file of the fourth respondent, quash the same and consequently direct the authorities to reinstate the petitioner in Government service with continuity of service with all eligible monetary benefits by regularizing his service retrospectively from the date of suspension.

For Petitioner : Mr.R.Maheswaran

For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

This writ petition has been filed challenging the order, dated 13.05.2016, passed by the fourth respondent, dismissing the petitioner from service, on the ground that the petitioner had submitted a bogus certificate, while seeking appointment to the post of Sweeper in the fourth respondent's office.



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2. The petitioner was employed as a Sweeper in the fourth respondent's office. Condition No.4 of the appointment order specifically stipulates that in case the certificates produced by the candidate are found to be bogus / fabricated on verification, the appointment will be terminated. On verification of documents, the respondents came to know that the petitioner had submitted a certificate from the Headmistress of a school stating that she had studied upto fifth standard, but the said certificate was a bogus one, according to the respondents. The respondents initiated disciplinary proceedings against the petitioner for submitting a bogus certificate while seeking employment. The petitioner participated in the enquiry proceedings. The Enquiry Officer, in his report, has held that the charges framed against the petitioner that she had produced a bogus educational certificate while seeking employment has been proved. Thereafter, a show cause notice was issued by the fourth respondent to the petitioner and subsequently, the impugned order came to be passed dismissing the petitioner from service. Aggrieved by the same, this writ petition has been filed.

3. Earlier, the petitioner had filed a writ petition before this Court in W.P.(MD) No.15299 of 2014 seeking for a copy of the enquiry report. No



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interim order was granted in the said writ petition and since the petitioner was dismissed from service under the impugned order, the earlier writ petition filed by the petitioner in W.P.(MD) No.15299 of 2014 came to be disposed of by this Court on 01.08.2019, after recording the fact that the petitioner had already been dismissed from service under the impugned order.

4. A counter affidavit has been filed by the fourth respondent denying the allegations of the petitioner in the affidavit filed in support of this writ petition.

5. Learned counsel for the petitioner would submit that for the post of Sweeper, there is no necessity for any educational qualification. Therefore, he would submit that the Enquiry Officer has erroneously held that the charges framed against the petitioner, namely, production of bogus certificate while seeking employment, are proved. He would further submit that since the School, in which the petitioner had studied, was closed subsequently, the certificate produced by the petitioner to prove that she had studied upto fifth standard cannot be held to be a bogus one.



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6. Learned counsel for the petitioner would also submit that without furnishing a copy of the enquiry report, the petitioner has been dismissed from service. He would also submit that along with the second show cause notice issued subsequent to the date of the enquiry report, the enquiry report was also not furnished to the petitioner. According to him, by violation of the principles of natural justice, the impugned order dismissing the petitioner from service has been passed.

7. Learned counsel for the petitioner would further contend that in the impugned order, it has been stated that the copy of the enquiry report has been furnished to the petitioner. But, the counter affidavit filed by the fourth respondent before this Court is silent with regard to the same, which will go to show that the enquiry report was never sent to the petitioner.

8. Learned counsel for the petitioner also submitted that non-supply of enquiry report to the delinquent is fatal to the prosecution in the disciplinary proceedings.



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9. On the other hand, learned Government Advocate appearing for the respondents would reiterate the contents of the counter affidavit filed by the fourth respondent before this Court. He drew the attention of this Court to the appointment order issued to the petitioner and would submit that as per Condition No.4 of the appointment order, it is clear that in case the certificates produced by the candidate are found to be bogus / fabricated on verification, the appointment will be terminated. He would further submit that only after finding out that the petitioner had furnished a bogus certificate, namely, a certificate from the Headmistress of a School stating that the petitioner had studied upto fifth standard, the respondents had initiated disciplinary proceedings against the petitioner and the Enquiry Officer, after following the procedure established under law, found that the charges framed against the petitioner have been proved. He would further submit that the enquiry report was also furnished to the petitioner and a show cause notice was also issued subsequently and only thereafter, since the explanation submitted by the petitioner was not satisfactory, the fourth respondent has passed the impugned order dismissing the petitioner from service.



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10. Learned Government Advocate appearing for the respondents also submitted that as per the decision of the Honourable Supreme Court in the case of ***Manoj Kumar vs. Government of NCT of Delhi and others***, reported in **2010 (11) SCC 702**, it has been held that if any candidate furnishes false or incomplete information or withholds or conceals any material information, he will be debarred from securing employment and liable to be terminated from service for furnishing false information.

11. Admittedly, there is no evidence to prove that the certificate submitted by the petitioner to show that she had studied upto fifth standard is a genuine certificate. A categorical assertion has been made by the respondents that the certificate produced by the petitioner with regard to her educational qualification is a bogus certificate. They had also given details in their counter affidavit filed before this Court and it is also evident from the enquiry report that the certificate submitted by the petitioner with regard to her educational qualification is a bogus certificate. The respondents have taken all efforts and have verified that the petitioner had submitted a bogus certificate from the Headmistress of a School disclosing that she has studied upto fifth standard and the efforts taken by the respondents are as follows:



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- (i) The fourth respondent, after the petitioner had joined duty on 13.08.2011, called for a verification report from the Headmaster, Subburaya Middle School, Sinthamani, with regard to the petitioner's record sheet containing her date of birth and educational qualification, *vide* Rc.No.002708/A1/11, dated 29.08.2011.
- (ii) But, the Headmaster of the said School, in his letter dated 28.11.2011, has stated that the school was closed during the year 1998 itself due to management problem and the related documents were handed over to the Assistant Elementary Educational Officer, Vasudevanallur, Tirunelveli District.
- (iii) In order to ascertain the genuineness of the petitioner's certificate, the fourth respondent called for the records from the Assistant Elementary Educational Officer, Vasudevanallur, Tirunelveli



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District, by letters dated 21.12.2011, 15.05.2012 and 21.06.2013.

- (iv) The Assistant Elementary Educational Officer, Vasudevanallur, has reported to the fourth respondent that as per the records available in their office, the petitioner has not studied in Subburaya Middle School, Sinthamani.
- (v) Hence, the admission register extract was called for pertaining to the admission No.1037 of the petitioner.
- (vi) Thereafter, a spot verification was done by the Regional Deputy Director of Government Examinations at the office of the fifth respondent and found that as per the school records, admissions for the year 1983 were started only on 20.06.1983 and not on 06.06.1983, as noted in the certificate submitted by the petitioner.
- (vii) The name of the Headmaster signed in the record sheet was not available in the school records during inspection.



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12. Only after taking the aforementioned efforts and after finding that the certificate produced by the petitioner pertaining to her educational qualification is a bogus certificate, the respondents had initiated disciplinary proceedings against the petitioner by framing charges, which have been found to be proved by the Enquiry Officer.

13. The Honourable Supreme Court of India in ***Manoj Kumar's*** case, referred to supra, has also held that there is no doubt that if any candidate furnishes false or incomplete information or withholds or conceals any material information, he will be debarred from securing employment and liable to be terminated from service for furnishing false information.

14. The Enquiry Officer has rightly held that the charges framed against the petitioner have been proved and thereafter, the fourth respondent has rightly dismissed the petitioner from service, after issuing a show cause notice to the petitioner prior to the impugned order dismissing the petitioner from service.



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15. Learned counsel for the petitioner would submit that the non-furnishing of enquiry report is fatal to the prosecution in the disciplinary proceedings. When admittedly, the condition imposed under the appointment order, namely, production of genuine certificates has been violated by the petitioner, since it has been found that the certificate pertaining to the petitioner's educational qualification is a bogus certificate, non-production of a copy of the enquiry report, even if the statement of the petitioner is true, cannot be a ground for setting aside the impugned order dismissing the petitioner from service. It has also been categorically contended in the impugned order that the enquiry report was furnished to the petitioner on 09.09.2014 itself and a reply was also sent by the petitioner on 28.10.2014. The evidence available before this Court clearly reveals that the copy of the enquiry report was furnished to the petitioner on 09.09.2014 itself. Even though the petitioner contends that the same was not furnished to her, there is no iota of evidence produced by the petitioner before this Court to show that she had not received the enquiry report.



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16. For the foregoing reasons, this Court does not find any merit in this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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

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ABDUL QUDDHOSE, J.

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