



W.P.(MD)No.3876 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.08.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P.(MD)No.3876 of 2017
and
W.M.P.(MD)No.3073 of 2017

N.Narayanasamy

... Petitioner

/Vs./

1.The Senior Regional Manager,
TASMAC,
No.100, Anna Nagar,
Madurai – 20, Madurai District.

2.The District Manager,
TASMAC,
Mullippaadi, Dindigul,
Dindigul District.

... Respondents

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.15/16/R.V dated 15.11.2016 along with the order of termination in Na.Ka.No.E.P.F.No.652/07 dated 16.11.2007 on the file of the Respondent No.2 and quash the same as illegal and consequently to direct the respondents to reinstate the petitioner as the Supervisor with all service and monetary benefits within the time stipulated by this Court.



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For Petitioner : Mr.G.Karthik
for M/s.T.Lajapathi Roy and Associates
For Respondents : Mr.H.Arumugam
Standing Counsel

ORDER

This writ petition has been filed challenging the termination order dated 16.11.2007 issued by the second respondent.

2. The petitioner will have to first satisfy this Court that there is no laches on his part for filing this writ petition. Admittedly, the impugned order of termination is dated 16.11.2007, whereas this writ petition was filed only in the year 2017. The petitioner claims in this writ petition that he received the impugned termination order dated 16.11.2007 only on 15.11.2016 through the communication of the respondents.

3. However, as seen from the counter affidavit filed by the second respondent, it is noticed as follows:-

(a) The petitioner submitted his explanation in the disciplinary



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proceedings initiated against him to the respondents on 24.03.2006 and since the respondents were not satisfied with the said explanation, they had dismissed the petitioner from service under the impugned termination order dated 16.11.2007 and the same was served on him on the very same day;

(b) The petitioner, who was earlier working under the respondent Corporation was appointed as Makkal Nala Paniyalar in Panchayat Development Department vide order of the District Collector, Dindigul dated 26.07.2006. The petitioner has joined Makkal Nala Paniyalar post without getting prior permission from the District Manager, TASMAL, Dindigul, and without submitting his resignation letter to the office of the respondent Corporation, in violation of the rules of the respondent Corporation;

(c) The petitioner applied for medical leave from 24.03.2006 to 16.04.2006 and thereafter, had neither turned up for duty nor applied for any leave nor any representation was given by him. Though, thereafter the petitioner submitted a representation on 17.07.2006 to the respondent Corporation, but within 10 days, he joined Makkal Nala Paniyalarkal Sangam, which is another government service, without getting prior



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permission from the respondent Corporation;

(d) Thereafter, the petitioner submitted a representation only on 17.10.2016 with the respondent Corporation, after 10 years from passing of the impugned termination order and on receipt of the said representation, the impugned communication dated 15.11.2016 enclosing the copy of the impugned termination order was once again sent. The petitioner has been terminated only in accordance with the rules of the respondent Corporation and no violation has been committed as claimed by the petitioner.

4. In the writ petition filed before this Court, no proper explanation has been submitted by the petitioner as to why the same was filed in the year 2017, though the impugned termination order is dated 16.11.2007. No dates and events with regard to the reasons for not filing the writ petition on time has been disclosed in the affidavit filed in support of this writ petition excepting for stating that after a long struggle, the petitioner received the impugned communication dated 15.11.2016 enclosing a copy of the impugned termination order dated 16.11.2007.



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5. A categorical stand has been taken by the respondents that immediately on the date of the impugned termination order dated 16.11.2007, a copy of the same was served on the petitioner. Admittedly, the petitioner had submitted an explanation in the enquiry proceedings initiated against the petitioner with regard to the charges levelled against him as early as in the year 2006 itself and as a prudent employee, he ought to have enquired with the respondent Corporation about the status of the enquiry proceedings. Admittedly, he has also joined another government service namely, Makkal Nala Paniyalarkal Sangam on 27.07.2006 itself and the learned counsel appearing for the petitioner is also not aware as to whether the petitioner continues to remain in service of Makkal Nala Paniyalarkal Sangam till today.

6. As a prudent person, whose service has been terminated, he should have certainly approached the respondent Corporation to enquire the status of the enquiry proceedings initiated against him with regard to the charges levelled against him by the respondent Corporation. The delay is not one year or two years, but the delay in filing this writ petition is almost 10 years. No proper explanation has been submitted by the



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petitioner in his affidavit filed in support of this writ petition for the inordinate delay. The respondent Corporation also claims that the charges levelled against the petitioner are serious in nature and only after giving due consideration to the explanation submitted by the petitioner in the year 2006, the petitioner has been terminated from service under the impugned termination order passed in the year 2007.

7. For the foregoing reasons, without going into the merits of the petitioner's contentions, solely on the ground that this writ petition has been filed by the petitioner with an inordinate delay and suffers from laches, this Court is dismissing this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
NCC : Yes / No
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ABDUL QUDDHOSE, J.

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Order made in
W.P.(MD)No.3876 of 2017

Dated:
28.08.2024