



W.P.(MD) No.6853 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD) No.6853 of 2019

Ginu Mohan C B ... Petitioner

Vs

1 The Chairman,
V.O.Chidambaranar Port Trust,
Tuticorin - 628 004.

2 The Chief Vigilance Officer,
V.O.Chidambaranar Port Trust,
Tuticorin - 628 004.

3 P.Arul Selva Nathan ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, directing the respondents No.1 and 2 to consider the petitioner's representation, dated 25.02.2019, and thereby conduct enquiry and take action against the 3rd respondent and consider the petitioner to the post of Junior Engineer at the 1st respondent office.



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For Petitioner : Mr.P.R.Prithiviraj

For Respondents 1 & 2 : Mr.A.Arivuchandran

For Respondent 3 : No appearance

ORDER

This Writ Petition has been filed, praying for a direction to the respondents No.1 and 2, to consider the petitioner's representation, dated 25.02.2019, to conduct an enquiry and take action against the third respondent and also to consider the petitioner to the post of Junior Engineer.

2. The case of the petitioner is that the Chairman, V.O.Chidambaranar Port Trust – first respondent had invited applications for filling up of two vacancies for the post of Junior Engineer in Civil Engineering Department, vide advertisement, dated 30.09.2009. The petitioner submitted his application and the same was assigned with application no.5697. The first respondent shortlisted 162 candidates, having eligible qualification, including the petitioner. Written examination was conducted on 10.01.2010, wherein the petitioner secured 20.50 marks. The petitioner also participated in the interview, wherein he secured 28.50 marks. Thus, totally, he secured 49



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marks in the recruitment. However, the petitioner stood at third position and, therefore, he was not selected for the post. The petitioner came to know that one Mr.V.Shivakumar, Advocate, Nagercoil, made a complaint to the Chief Vigilance Officer, V.O.Chidambaranar Port Trust – second respondent, against the third respondent, alleging that the third respondent had produced fake work experience certificate. The third respondent passed diploma in civil engineering with second class only in the year 2006, whereas, in his application, he stated that his year of passing was 2005. Hence, this Writ Petition.

3. Learned counsel, appearing for the petitioner, would submit that though the petitioner stood third in rank in the selection process conducted in the year 2009, he was not selected, but, instead, the third respondent was selected by way of undue influence and producing fake certificate. He, accordingly, prayed to take action against the third respondent and to consider the petitioner to the post of Junior Engineer.

4. Per contra, learned counsel, appearing for respondents 1 and 2, would submit that a complaint was lodged by one Mr.E.Shivakumar, Advocate, on 14.10.2019, with the respondents 1 and 2, with regard to the fraudulent appointment obtained by the third respondent and a charge memo



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was issued on 09.10.2024 against the third respondent and one P.Saravakumar, and an enquiry officer was also appointed and that the enquiry was going on. He would further submit that the petitioner participated in the selection process, conducted in the year 2009, and, thereafter, after a lapse of more than 10 years, submitted a representation only in the year 2019, to take appropriate action against the third respondent, alleging that he produced fake experience certificate. The learned counsel would also submit that the writ petition is devoid of merits and there is no substance in seeking the relief of considering the petitioner for the post of Junior Engineer, since the recruitment process was already completed in the year 2009 itself. He, accordingly, prayed for dismissal of the writ petition.

5. The first respondent has filed a counter affidavit, stating, that the writ petitioner stated in his petition in paragraph 5 that the petitioner reliably came to know that one E.Shivakumar, Advocate, Nagercoil, made a complaint before the second respondent against the third respondent, alleging that the third respondent had produced fake experience certificate at the time of his recruitment for the purpose of getting employment. In this regard, in the counter affidavit filed by the first respondent, particularly para 7, it has been stated that appropriate action has been initiated by the Central Vigilance



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Commission and a charge memo has also been issued against the third respondent and one P.Saravakumar.

6. At this juncture, it is relevant to extract paragraph 7 of the counter affidavit of the first respondent, which reads as under :

"7. With regard to the averments contained in Para No.5, it is made clear that the Central Vigilance Commission forwarded the complaint letter dated 14.10.2019 made by one Mr.E.Shivakumar, Advocate, addressed to the 1st respondent and marking a copy to the 2nd respondent. The complaint was regarding, fraudulent appointment obtained by the 3rd respondent herein and one P.Saravakumar AEE, by producing fake certificates. The complainant has requested the port to take action on the above complaint at the earliest point of time and same has been forwarded to the 2nd respondent. Now, charge memo has been issued on 09.10.2024 as against the above persons and an enquiry officer has been appointed and the enquiry process is going on."

7. I have considered the rival submissions made on either side and also perused the material available on record.

8. The grievance of the petitioner is to take action against the third respondent, based on his representation, dated 25.02.2019. In this regard, it is to be stated that, as mentioned supra, the first respondent has already initiated appropriate action against the third respondent. As for the



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relief to consider the petitioner to the post of Junior Engineer, the recruitment process had already been completed in the year 2009 and the writ petition came to be instituted after a lapse of more than 10 years. As such, the said prayer is not sustainable in law.

9. Writ Petition is, therefore, dismissed. No costs.

20.02.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

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