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C.Govindan Vs. the Inspector General

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Court : Chennai

Decided On : Dec-10-2013

Judge : T.RAJA

Appellant : C.Govindan

Respondent : The Inspector General

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS Dated :

10. 12.2013 CORAM: THE HON'BLE MR. JUSTICE T.RAJA W.P.No.12228 of 2010 C.Govindan ... Petitioner .. Vs ..

1. The Inspector General (Prison), Office of the Inspector General (Prison), Egmore, Chennai 600 008.

2. The Deputy Inspector General (Prison), Egmore, Chennai 600 008.

3. The Superintendent, Salem Central Prison, Salem. ... Respondents Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the second respondent's order dated 29.04.2009 in No.1993/E.S.2/2009 and quash the same and consequently direct the respondents to provide the job to the petitioner with attendant benefits. For Petitioner : Mr.S.Gunaseelan For Respondents : S.V.Duraisolaimalai, Additional Government Pleader - - - - -

ORDER

The present writ petition has been filed by the petitioner challenging the correctness of the impugned order dated 29.04.2009 in No.1993/E.S.2/2009 passed by the second respondent Deputy Inspector General (Prison), Egmore, Chennai, to quash the same and direct the respondents to provide job to the petitioner with attendant benefits.

2. The case of the petitioner is that the petitioner was appointed as sanitary worker on 09.08.1989 by the third respondent Superintendent, Salem Central Prison, Salem, in his proceedings No.Po5/10572/89 and posted in Sub-Jail, Dharmapuri. His service was also regularised with effect from 16.08.1989 by the third respondent in the post of sanitary worker. While the petitioner was working in the Sub-Jail at Dharmapuri, after entertaining a doubt about the genuineness of the certificate produced by the petitioner saying that he had passed 8th standard, he was served with a charge memo by the third respondent alleging that he has obtained employment by producing bogus school certificate and thereby, violated Rule 19(2) and 20 of the Tamil Nadu Government Servant Conduct Rules. Immediately after receiving the charge memo, the petitioner has submitted an explanation stating that he had not produced any bogus certificate as alleged. It is also stated that he has studied in the Orappam Panchayat Union Middle School upto 8th standard. Thereafter, the petitioner's father has got the school certificates from the said school. Therefore, he was nothing to do with the allegation that a bogus certificate was produced before the third respondent at the time of securing appointment in the post of sanitary worker. But, subsequently, the explanation was not accepted. Finally, an Enquiry Officer was appointed and as per the report of the Enquiry Officer, the petitioner had produced bogus certificate and thereby, violated Rule 19(2) and 20 of the Tamil Nadu Government Servant Conduct Rules. After receipt of the enquiry report, he was again issued with second show cause notice on 29.08.1996 to submit his written submission within 15 days. The petitioner also submitted his explanation to the third respondent on 25.09.1996. Even after receipt of the second show cause notice, the petitioner repeated that he had not produced any bogus certificate as that was provided by the petitioner's

father. But unfortunately, the Disciplinary Authority, affirming the report submitted by the Enquiry Officer, passed final order of dismissal from service. Aggrieved by the said order, the petitioner had filed an appeal before the second respondent Deputy Inspector General (Prison). In the meanwhile, as the petitioner's appeal was not considered, he had also filed an Original Application in O.A.No.306 of 1997 before the Tamil Nadu State Administrative Tribunal, challenging the dismissal order dated 03.10.1996 passed by the third respondent. The said Original Application was transferred to this Court as W.P.No.29734 of 2006. On 18.02.2009, the said writ petition was also disposed of by giving a direction to the second respondent to dispose of the petitioner's appeal within a period of eight weeks. In the light of the direction issued by this Court, the second respondent had disposed the appeal by confirming the order passed by the third respondent. That is why, the present writ petition has been filed before this Court.

3. Assailing the impugned order passed by the second respondent, the learned counsel appearing for the petitioner submitted that when there is no minimum education qualification prescribed by the Tamil Nadu State and Subordinate Service Rules for the post of sanitary worker, the question of producing bogus certificate stating that the petitioner had passed 8th standard is absolutely unfair and untenable and when the petitioner wanted to join the post of sanitary worker as he was able to read and write that is the minimum educational qualification, there is no need for the petitioner to produce any bogus certificate. Again, the petitioner also submitted possible explanation to the respondents stating that his father only had obtained the school certificate from the school in which he studied upto 8th standard. Therefore, the petitioner cannot be connected to the allegation of submitting bogus certificate in the third respondent's office. But the third respondent and also the second respondent completely overlooked all the explanations offered by the petitioner. In any event, when the petitioner had put in seven years of service from 09.08.1989 till the date of dismissal viz., 03.10.1996, some leniency should be shown by interfering with the impugned order and providing employment in the same third respondent's office.

4. A detailed counter has been filed by the respondents. The learned Additional Government Pleader submits that the petitioner was appointed as Sanitary Worker

in the third respondent's office and his service was also regularised on 16.08.1989. Thereafter, a complaint was received against the petitioner forwarded by one Mr.N.Ranganathan, Old Pettai, Krishnagiri and another person by name Mr.V.Ragavan alleging that the petitioner had secured the job by producing bogus educational certificate as though the same was issued by the Headmaster of the Orappam Panchayat Union Middle School. Based on the complaint, the concerned school authorities were addressed by the third respondent Superintendent of Prisons, Central Prison, Salem, for verification of educational certificate produced by the petitioner at the time of his enlistment. Only after thorough verification, the Head Master of the school concerned informed that the educational certificate in question was not issued by the school authorities. On the basis of the report issued by the Head Master of the school, the third respondent issued a charge memo calling upon the petitioner to submit explanation. The petitioner's explanation was not satisfactory. Therefore, an Enquiry Officer was appointed to conduct enquiry and finally, the Enquiry Officer, after going through the records whatever was available with them as per the report, specifically making a finding that the petitioner himself has admitted his illiteracy and got his appointment in Prison Department by producing bogus school certificate with the help of his father. Only in view of the admission of the guilt made by the petitioner during the course of enquiry, the Enquiry Officer found guilty and thereafter, the second show cause notice was issued, for which, the petitioner submitted explanation. However, the Disciplinary Authority, after going through the report of the Enquiry Officer, found that the petitioner has admitted his guilt and on that basis, passed the order of dismissal from service. However, the petitioner challenged the dismissal from service vide proceedings dated 03.10.1996. The petitioner had preferred an appeal against the order knowing fully well that he had admitted his guilt. Therefore, the Appellate Authority also dismissed the appeal. When an order dismissing the petitioner from service was passed based on the admission made by the petitioner, the question of allowing the appeal does not arise. Further, when the petitioner has not even refuted the charges satisfactorily before the Enquiry Officer, the Enquiry Officer has rightly presented his report stating that the petitioner has admitted the allegations made in the charge memo. Therefore, nothing survives in this petition and no fault can be found in the impugned order.

5. This Court is unable to agree with the submissions made by the learned Additional Government Pleader for the reason that when the petitioner was issued with a Charge Memo dated 28.02.1996 calling upon him to submit his explanation as to why he should not be dealt with for violation of Rule 19(2) and 20 of the Tamil Nadu Government Servant Conduct Rules, the petitioner submitted his explanation. However, during the course of enquiry, only on the basis of the admission made by the petitioner, the Disciplinary Authority has found him unsuitable for his continuance in the post of sanitary worker. Moreover, one Additional Superintendent of Prison from the central prison, Salem was appointed as the enquiry officer to enquire into the charges framed against him under R.17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The enquiry was held with the available witnesses and thereupon his entire evidence were recorded. When the petitioner was permitted to cross-examine the official witnesses after their statements in his presence, the petitioner declined to cross-examine the witnesses. Besides, he had also stated that there was no witness to enquire on his side and there were no records to produce on his defence. When the petitioner was given all reasonable opportunities, he was unable to disprove the charges. In view of that, after due verification, the enquiry officer came to the conclusion that the Headmaster of the school concerned informed that the educational certificate in question was not issued by the school authorities. In view of the above, it was found that the certificate produced by the petitioner was a bogus and fabricated one. Therefore, the third respondent awarded the punishment of dismissal from service, which has also been confirmed by the Deputy Inspector General of Prison, Egmore, the second respondent. As it is also trite law that when a person approaching this Court under Article 226 of the Constitution of India seeking remedy should come up with clean hands, but, in the case of the petitioner, when the charge established that he had produced bogus certificate, this Court is not inclined to exercise the discretionary power in his favour. Therefore, this Court is unable to find any error or illegality in the impugned order passed by the second respondent. Hence, this writ petition is dismissed. No costs. Index : Yes 10.12.2013 Website : Yes jrl To 1. The Inspector General (Prison), Office of the Inspector General (Prison), Egmore, Chennai 600 008.

2. The Deputy Inspector General (Prison), Egmore, Chennai 600 008.

3. The Superintendent, Salem Central Prison, Salem. T.RAJA., J.

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