

V.Kannappalli Vs. Block Development Officer

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Court : Chennai

Decided On : Apr-02-2012

Judge : Vinod K.Sharma, J.

Acts : [Constitution of India](#) - Articles 226; Tamil Nadu Civil Rules, 1955

Appeal No. : W.P. No.8488 of 2007 (O.A.No.90 of 2002)

Appellant : V.Kannappalli

Respondent : Block Development Officer

Advocate for Def. : Mr.S.Thangaraja, Adv

Advocate for Pet/Ap. : Mr.T.Arul Raj, Adv.

Judgement :

Prayer: Writ petition is filed under Article 226 of [Constitution of India](#) for the issuance of a writ of Certiorari, to call for the records on the file of the respondent pertaining to the order Na.Ka.No.5528/2001/Aa.4 dated 29.11.2001 and quash the same and consequently, direct the respondent to reinstate the petitioner into service with all back wages and consequential benefits.

ORDER

1. With regard to the discrepancies found in the centre, during the inspection conducted by the Hon'ble Minister for Education, Tamil Nadu, on 26.11.2001, at Nutritious Meal Center, Panchayat Union Elementary School, Madanakuppam, belonged to Panchayat Union, Burgur, Mr.V.Kanapalli, nutritious meal Organizer, Panchayat Union Elementary School, Madanakuppam, has been dismissed from service with effect from 30.11.2001.

1. He is a unclassified Miscellaneous Government Servant

2. Tamil Nadu Civil Rules, 1955 (Disciplinary and Appeal) will not be applicable to him.

Mrs.R.Padma, Nutritious meal Organizer, Panchayat Union Elementary School, Jedukoththur has been ordered to take as additional charge of the above mentioned Nutritious meal center.

Also ordered to forward the details of handover and takeover of charges to this office.

4. The impugned order has been challenged by learned counsel for the petitioner, on the ground that the impugned order is unsustainable in law, as it has been passed without holding departmental enquiry, though the order was passed by way of punishment, for the discrepancies noticed at the centre.

5. The second ground of challenge is that the order is outcome of non application of mind, as the respondent has treated the petitioner to be a temporary employee, whereas he was a regular employee, as his services were regularized vide Government order dated 16.04.1989.

6. The third ground of challenge is that, the impugned order is not sustainable in law, as it has been passed by the Commissioner, at the instance of the Hon'ble Minister for Education, without his independent application of mind.

7. Learned counsel for the respondent supported the impugned order, on the ground that the petitioner was merely a temporary employee, therefore, keeping in view of his work, conduct, and discrepancy noticed at the centre, the impugned

order was passed by the competent authority.

8. It is also contention of learned counsel for the respondent, that the terms and conditions of employment of petitioner stipulated that his services could be terminated at any time, without assigning any reason.

9. On consideration, I find that this writ petition deserves to succeed. The fact, that service of petitioner was regularized, was not disputed, therefore, the impugned order, which has been passed by treating him to be temporary employee, cannot be sustained.

10. Even otherwise, the contention of learned Additional Government Pleader cannot be accepted. The reading of impugned order shows, that it is stigmatic in nature and is not an order of termination simpliciter in terms of letter of appointment. The petitioner was dismissed from service, as a specific charge of discrepancies was noticed during visit of the Hon'ble Minister.

11. Even if for the sake of argument, petitioner is treated to be temporary employee, still the impugned order cannot be sustained, as it was not open to the respondent to pass order of dismissal without holding departmental enquiry.

12. Furthermore, the reading of impugned order also shows that the impugned order has been passed on the direction of the Hon'ble Minister for Education, which is not permissible, as the Hon'ble Minister could have only reported the misconduct to the competent authority, for independent decision, after following due process of law. The petitioner could not be dismissed on the direction of the Hon'ble Minister for Education.

13. Consequently, this writ petition is allowed. The impugned order is set aside, but with no order as to costs.

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