
(2009) 07 MAD CK 0377

In the Madras High Court

Case No : Writ Petition No. 288 of 2007 (O.A. No. 751 of 2001)

K. Kandasami

APPELLANT

Vs

The Executive Officer

RESPONDENT

Date of Decision : 14-07-2009

Acts Referred:

Citation : (2009) 07 MAD CK 0377

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : A. Baskaran, for the Appellant; V. Arun, Additional Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

M. Jaichandren, J.—Heard the learned Counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent.

2. The petitioner had entered into service, as an N.M.R (Tractor Driver), on 1.12.1996, in the Vettaikkaranputur Town Panchayat. He is holding a Heavy Vehicle driving licence, obtained in the year, 1995. He has registered his name in the Employment Exchange, at Coimbatore. The petitioner is a physically handicapped person, with more than 50% disability in his leg. The petitioner was brought into regular appointment, as a Tractor Driver, with effect from 7.11.1997, in the time scale of Rs. 975-25-1300-30-1660, by the proceedings of the Executive Officer, Vettaikkaranputur Town Panchayat, in Pro.Na.Ka. No. 744/97/Tha A, dated 21.5.1998. The appointment committee of the Town Panchayat had also passed a resolution, dated 20.5.1998, appointing the petitioner as a Tractor Driver, on regular basis. His appointment had been made in view of the age concession given, in G.O.Ms. No. 704, Public (Services.A) Department, dated 15.4.1964.

3. Pursuant to his appointment as a Tractor Driver, on regular basis, the petitioner has been carrying on his duties, efficiently, without any blemish. While

so, some of the ward members of the Town Panchayat had given a complaint to the District Collector, Coimbatore, alleging that the certificates furnished by the petitioner, regarding his age, educational qualifications, etc., are false. Based on the complaint made in the year, 1998, the respondent had issued the impugned order, dated 11.1.2001, removing the petitioner from service, without giving any notice and without affording an opportunity to the petitioner, to put forth his case. No charges had been framed, nor was an enquiry conducted. The respondent had passed the impugned order, dated 11.1.2001, arbitrarily, without following the principles of natural justice.

4. The learned Counsel appearing on behalf of the petitioner had submitted that the respondent had not framed any charges against the petitioner, nor an enquiry had been conducted, with regard to the complaints received from the ward members of the Town Panchayat against the petitioner. No show cause notice had been issued to the petitioner calling upon the petitioner to show cause as to why an appropriate action should not be initiated against the petitioner for production of false certificates. However, without following any of the procedures prescribed by the rules and regulations applicable to the case, the respondent had passed the impugned order, dated 11.1.2001, removing the petitioner from service. The said order is contrary to the procedures established by the Tamil Nadu Civil Services (Discipline and Appeal) Rules, and as well as the principles of natural justice. The appointment of the petitioner had been made only after a proper scrutiny of the records produced by the petitioner. The appointment was also made in accordance with the relevant orders, with regard to the relaxation of the age of the petitioner. Further, the appointment was made by a valid resolution of the Vettaikkaranputur Town Panchayat. Moreover, the petitioner is a physically handicapped person, with more than 50% disability. In such circumstances, the impugned order of the respondent, dated 11.1.2001, is devoid of merits and therefore, it is liable to be set aside.

5. In the reply affidavit filed on behalf of the respondent the allegations and averments made by the petitioner had been denied. It has been stated that the Vettaikkaranputur Town Panchayat, in its Resolution No. 33, dated 10.2.1997, had resolved to appoint the petitioner to operate the Tractor and Tractor, as there was an urgent need for such appointment, for the maintenance of Public Health and Sanitation. The petitioner had been appointed, on daily wages, as per the proceedings of the District Collector, Coimbatore, dated 26.5.1995. The appointment was only temporary in nature and it was to continue till a regular appointment was made through the Employment Exchange. While the petitioner was in service as a Tractor Driver, on daily wages, a petition had been received by the District Collector, Coimbatore, wherein, it was stated that the petitioner had not studied upto 8th standard and the certificates furnished by him had been forged. Further, he had not completed the three years of Heavy Vehicle operation, as required under the relevant Government Orders. Based on the order of the District Collector, Coimbatore, dated 27.12.2000, the Executive Officer of Vettaikkaranputur Town Panchayat, had removed the petitioner from

service, by his proceedings, dated 11.1.2001.

6. In view of submissions made by the learned Counsels appearing on behalf of the petitioner, as well as the respondents, and on a perusal of the records available, it is clear that the petitioner had been removed from service, by the impugned order of the respondent, dated 11.1.2001. The petitioner has been working as a Tractor Driver, in the Vettaikkaranputur Town Panchayat, since his appointment, on 1.12.1996, on temporary basis. Thereafter, by a resolution of the appointment committee of the Vettaikkaranputur Town Panchayat, the petitioner had been appointed as a Tractor Driver, on regular basis. While so, the respondent had passed the impugned order, dated 11.1.2001, removing the petitioner from service, without giving him an opportunity of being heard. No notice had been issued to the petitioner before the impugned order had been passed. There were no charges levelled against the petitioner and no enquiry had been conducted against him.

7. It seems that the impugned order had been passed by the respondent only on the basis of certain complaints received from the ward members of the Vettaikkaranputur Town Panchayat. Based on the said complaints the District Collector, Coimbatore, had permitted the respondent to pass an order to remove the petitioner from service. It is not in dispute that the petitioner was not given an opportunity to put forth his case before he was removed from service. As such, it is clear that the impugned order had been passed by the respondent in violation of the principles of natural justice. Further, the petitioner is a person with more than 50% physical disability.

8. In view of the fact that the petitioner has been continuing in service, pursuant to the interim order passed by the Tamil Nadu Administrative Tribunal, by its order, dated 1.2.2001, made in O.A. No. 751 of 2001, and in view of the admitted position that the impugned order, dated 11.1.2001, had been passed by the respondent without following the principles of natural justice, it would be appropriate for this Court to set aside the impugned order of the respondent, dated 11.1.2001, as being arbitrary and illegal. Hence, it is set aside. Accordingly, the writ petition stands allowed. No costs.