
(1992) 08 MAD CK 0055
In the Madras High Court

M. Devan

APPELLANT

Vs

The Tamil Nadu Civil Supplies Corporation Limited

RESPONDENT

Date of Decision : 18-08-1992

Acts Referred:

Penal Code, 1860 (IPC) — Section 420, 468, 482

Citation : (1993) 1 MLJ 214

Hon'ble Judges : Srinivasan, J

Bench : Single Bench

Judgement

Srinivasan, J.—When the writ petition was taken up for hearing it was represented on behalf of learned Counsel appearing for the respondent that a letter has been received by them from the respondent this morning to the effect that their services as counsel for the respondent have been terminated. The letter has been produced before me. I find that according to the letter a new panel of advocates has been prepared and the present advocates on record have been requested to hand over the records in all the pending cases to the respondent so that they could entrust the same to the new advocates. Hence learned Counsel expressed his dilemma in continuing with the arguments in the case. This writ petition was taken up for hearing on 11.8.1992. It was part-heard on that day and I posted it to 17.8.1992. It could not be heard yesterday and it was adjourned to this date. As this matter is part-heard, the letter of the respondent will not certainly prevent the counsel on record from continuing the arguments and concluding the same. I directed the learned Counsel for the respondent on record to complete the arguments. Pursuant to my direction arguments were advanced by learned Counsel for the respondent.

2. This writ petition has to be allowed on a very short ground. The prayer of the petition is to quash the order dated 20.11.1984 passed against him by the respondent terminating his services on the ground that though he was not qualified for the post of Assistant Quality Inspector he made false representation and produced false certificates and got promoted as Assistant Quality Inspector.

3. According to the petitioner he never made false representation and he gave the correct information in his application that he had passed B.Sc, with Chemistry as main subject and Physics and Mathematics as ancillaries. It is his further case that the documents which are said to be forged are not tampered by him and when they were handed over by him to the respondent they contained only the correct entries to the effect that he had passed B.Sc, Chemistry with Mathematics and Physics as ancillary subjects,

4. Two charges were framed against the petitioner on 9.5.1984 as follows:

(1) The petitioner concealed the fact that he did not have the requisite educational qualification for the post of Assistant Quality Inspector and gave an application on 97.1982 containing false information thus, cheating the officials and obtained an appointment as Assistant Quality Inspector.

(2) He tampered with the temporary certificates issued by the University by erasing the word Mathematics and writing the word Botany thereon and thus forged the certificates.

The petitioner denied the charges and prayed for production of the documents on which reliance is placed by the respondent.

5. The Enquiry Officer posted the matter to 19.9.1984 from 14.9.1984 on which later date the enquiry, commenced at 3.00 p.m. The Enquiry Officer put some questions to the petitioner as to whether he was denying the charges. The petitioner denied the charges. The Enquiry Officer put in all six questions. The petitioner only reiterated his stand taken earlier and ultimately he stated that the relevant documents, viz. his applications as well as the certificates should be produced for the enquiry as they were necessary thereafter. The last question put by the Enquiry Officer as whether the petitioner wanted to say anything. The answer of the petitioner was that he was presenting an application. The said application was one for adjournment till the production of the relevant documents. The Enquiry Officer received the application. An endorsement was made on the minutes of the proceedings that the enquiry was adjourned. The Tamil expression used is

6. Thereafter, the Enquiry Officer submitted a report to the disciplinary authorities stating that both the charges against the petitioner were proved to be correct. In the report, the Enquiry Officer had stated about the allegations, replies given by the petitioner and his conclusions. The proceedings submitted along with the report only contained the questions put by the Enquiry Officer to the petitioner and his answers to which I have already made a reference. The entry as to adjournment is also found in the proceedings submitted by the Enquiry Officer and it is significant to note that the signature of the petitioner and the endorsement made by him that he had read the proceedings and found them to be correct are at the bottom below the endorsement relating to adjournment. Therefore, it is clear that the petitioner was informed by the Enquiry Officer that the enquiry as adjourned.

7. Admittedly, no further enquiry as held and the petitioner was not informed that his application for adjournment was refused or rejected by the Enquiry Officer submitted a report on the basis of which the disciplinary authority passed the impugned order.

8. There can be no doubt whatever that the enquiry has not been conducted properly in accordance with law, apart from the fact that the enquiry was not conducted by the Enquiry Officer and sufficient evidence was not on record to substantiate the two charges framed against the petitioner. The respondent ought to have produced the documents before the Enquiry Officer which are relevant for the purposes of the enquiry and which prove the two charges framed against the petitioner and the petitioner ought to have been given an opportunity to make his submissions with reference to the said documents. As the said procedure has not been followed, I have no option but to quash the impugned order passed by the respondent. The order dated 20.11.1984 in N.K. No. 22282/83 El on the file of the respondent is quashed. The writ petition is allowed. The respondent, if it so desires may continue the enquiry from the stage at which it was left and conclude the same in accordance with law. There will be no order as to costs.

9. As the order of termination is quashed, the petitioner will be deemed to be in service and the order of suspension made against him previously will get revived. Hence the petitioner will be treated as an employee under suspension until further orders are passed by the respondent.

10. It is necessary to mention that the respondent filed a criminal complaint against the petitioner by forwarding a complaint to the Inspector of Police, District Crime Branch, Dharmapuri on 21.3.1983. That was taken on file and a case was registered under Sections 420 and 468 of the I.P.C. Now the case is pending as C.C. No. 85 of 1984 on the file of the Judicial Magistrate No. 1, Dharmapuri. The petitioner has filed Crl. O.P. No. 3780 of 1991 in this Court for quashing the said proceedings. In Crl. M.P. No. 2321 of 1991 an order of stay or the criminal proceedings has been passed on 126.1991.1 am of the view that the Crl. O.P. No. 3780 of 1991 shall be disposed of immediately on its merits as the relevant question as to whether the petitioner is guilty of forgery or not shall be decided. The petitioner states that the ground on which he seeks to have the criminal proceedings quashed is that the proceedings have been unduly delayed for over eight years and they should not be continued. If this Court thinks that the proceedings can be quashed on that ground, it is for the court to decide accordingly. At any rate, the proceedings which was initiated in 1984 should not be kept stayed indefinitely by virtue of an order of this Court in a proceedings for quashing the same u/s 482 of the Crl. P.C.

11. The registry is directed to post Crl. O.P. No. 3780 of 1991 and Crl. 2324 of 1991 before the concerned Judge on 20.8.1992 for orders as to fixing the date for hearing.