
(2009) 10 MAD CK 0303
In the Madras High Court
Case No : Writ Petition No. 34230 of 2006

R. Kannan

APPELLANT

Vs

The District Forest Officer, Kallakurichi Forest Division and
The Asst. Conservator of Forest, Attur Forest Division

RESPONDENT

Date of Decision : 09-10-2009

Acts Referred:

Citation : (2009) 10 MAD CK 0303

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : Aksai Associates, for the Appellant; A.N. Purushothaman,
Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—The petitioner was working as a Forest Guard in the Ranganappur Beat, Arasampatti Head Quarters in Sankarapuram Taluk. He was given a charge memo dated 20.06.1996 by the District Forest Officer, the first respondent herein. The charge against the petitioner was that he got employment by impersonating the name of another person with the same name and the certificate of employment produced by him was not genuine. Since the petitioner joined the service by impersonating some other person, action has been initiated against the petitioner. The petitioner gave his explanation and subsequently an enquiry was conducted against the petitioner. When the petitioner was given the copy of the enquiry report dated 03.06.1998 and asked to submit his further explanation, by a letter dated 07.07.1998, he complained about the conduct of the enquiry officer and requested further time for submitting his explanation. In the meanwhile, he moved an Original Application before the Tribunal in O.A. No. 5383 of 1998 challenging the charge memo as well as the enquiry report. The said original application was admitted on 14.07.1998 but no interim Order was granted. The petitioner subsequently stated that since the matter is pending before the Tribunal, he was not giving his

final explanation and the respondents must not pass any orders. Not satisfying with the stand taken by the petitioner, the first respondent by an order dated 31.07.1998 found the petitioner guilty of the charges. Therefore, he was removed from service. Though an appeal will lie against the said order to the Conservator of Forests, the petitioner did not file any appeal. On the other hand, he filed O.A. No. 6355 of 1998 before the Tribunal seeking to challenge the order of removal.

2. On notice from the Tribunal, the respondents have filed a reply affidavit dated 31.08.1998 justifying the removal order passed against the petitioner.

3. In view of the abolition of the Tribunal, the matter stood transferred to this Court and renumbered as W.P. No. 34230 of 2006.

4. When the petitioner was asked about the fate of O.A. No. 5383 of 1998, he was not able to inform this Court about the same. But, however, the note put up by the Registry shows that the said matter was never transferred to this Court and the presumption being, it must have been disposed of by the Tribunal itself.

5. The short question that arises for consideration is whether the petitioner's removal was justified or not. In the present case, the petitioner was removed after conducting a proper enquiry and the petitioner was assisted by a retired Forest Ranger in the enquiry. He also gave a statement that he was unable to explain the truthfulness of the certificate produced by the petitioner. The petitioner had perused all the records but he had failed to submit any explanation, on the other hand, he has challenged the charge memo before the Tribunal. In any event, since the petitioner impersonated some other person and got his employment by producing the fake employment certificate, this is not a fit case where any relief can be given to the petitioner.

6. The Supreme Court has held that in case of suppression of fact in obtaining an employment and that fact is admitted, there cannot be any further explanation to improve his case in Secretary, Andhra Pradesh Social Welfare Residential Educational Institutions v. Pindiga Sridhar and Ors. (2007) 13 SCC 352. It is also stated that in respect of a community certificate, where a fake certificate is produced and it resulted in cancellation of appointment, the person is not entitled for any restoration of service vide its judgment in Additional General Manager/ Human Resource Bharat Heavy Electricals Ltd. Vs. Suresh Ramkrishna Burde, .

7. In the light of the above, the writ petition shall stand dismissed. No costs.