
(2012) 02 MAD CK 0161

In the Madras High Court

Case No : Writ Petition No. 2836 of 2007 (O.A. No. 387 of 2001)

R. Margandeyan

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 16-02-2012

Acts Referred:

Citation : (2012) 02 MAD CK 0161

Hon'ble Judges : Vinod K. Sharma, J

Bench : Single Bench

Advocate : R. Sankara Subbu, for the Appellant; R. Ravichandran, A.G.P., for the Respondent

Final Decision : Dismissed

Judgement

Vinod K. Sharma, J.—The petitioner studied upto S.S.L.C. and was appointed as Nominal Mustor Roll Mazdoor in the office of the Junior

Engineer (Transport), Highways and Rural Works Department, Guindy 25, from 25.8.1976 to 09.07.1977. The petitioner got his name registered

with the District Employment office, Chennai and his name was sponsored for appointment as ""peon"" (now called Office Assistant). After due

verification of certificates regarding educational qualification, and service particulars of the petitioner, was sent to the first respondent who

appointed the petitioner as ""Peon"".

2. The petitioner joined duty on 04.07.1980, in the Agriculture department. The petitioner successfully completed probation period on 30.09.1981.

3. On 30.04.1984, the petitioner was called by the Under Secretary to the Government, and told orally, that certificate submitted by the petitioner

was bogus and was asked to submit resignation immediately.

4. The case of the petitioner is that he was threatened by the Under Secretary, that he would be handed over to the police, in case did not resign

immediately. Police was also present in the office at the time of incident.

5. The petitioner has neither named the Under Secretary nor impleaded him as party, therefore, this Court cannot take note of the allegation of

malafide levelled against the person, not a party to the litigation.

6. The case of the petitioner is that he submitted resignation under threat, which was accepted on the same day and the petitioner was relieved

from duty.

7. The petitioner filed representation for reinstatement in service on the ground that the petitioner was forced to tender resignation thus, his

resignation was not voluntary.

8. The representation of the petitioner was rejected on 03.03.1987, specifically informing, the petitioner that he had tendered resignation for having

submitted the bogus certificate. The impugned order was passed on 03.03.1987, but petitioner has chosen to file

9. It is settled law, that the representation which is not statutory, cannot be a ground to condone the delay or limitation. It was only in the year

2001, i.e. for the first time, the petitioner approached the learned Administrative Tribunal, i.e. 17 years after acceptance of resignation.

10. The petition therefore suffers from delay and laches, because the representation filed was not statutory in nature, therefore, cannot be taken as

a ground for condoning the delay in approaching the Court.

11. Further, the petitioner raises disputed question of fact, about tendering resignation under threat.

12. For the reason best known to the petitioner, he has failed to name the under Secretary, nor impleaded him as party to the writ petition.

13. The allegation of malafide levelled against a person who is not a party, cannot be looked into by the Court.

14. In view of the position explained above, the petitioner after having resigned from service, cannot maintain this writ petition to challenge the

order dated 03.03.1987, rejecting his request for reinstatement, nor the writ petition is competent as it raises disputed question of fact which

cannot be gone into in exercise of writ jurisdiction. The writ also suffers from delay and laches.

15 Consequently, finding no merit, the writ petition is dismissed. No costs.