
(2011) 12 MAD CK 0241
In the Madras High Court
Case No : Writ Petition No. 26205 of 2011

V. Annamalai

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision : 14-12-2011

Acts Referred:

Citation : (2012) 134 FLR 860 : (2012) 3 LLJ 181

Hon'ble Judges : R. Subbiah, J; Elipe Dharma Rao, J

Bench : Division Bench

Advocate : V. Raghavachari, for the Appellant; R. Meenakshi C.G.S.C., for the Respondent

Final Decision : Allowed

Judgement

Elipe Dharma Rao, J.—Thus writ petition has been filed for issuance or a writ of certiorarified mandamus, to call for the records in O.A. No. 183/2011 dated August 30, 2011 on the file of the second respondent herein in refusing the backwages in confirming the order of the respondent in the proceedings bearing No. IHT/HB/407/2010/1245 dated June 22, 2010 and to quash the same as illegal, unjust and against the principles of law and consequently direct the respondents to pay backwages to the petitioner for the period November 24, 2008 to June 28, 2010 at the rate of scale of pay which the petitioner was drawing prior to the date of termination i.e. November 24, 2008 together with interest. When the petitioner was working as Chowkidar, disciplinary proceedings were initiated against him and he was removed from service by order dated November 24, 2008 without conducting any enquiry. The appeal preferred by him was also dismissed. Hence, the petitioner filed O.A. No. 424/2009 before the Tribunal and the Tribunal, by order dated March 1, 2010, set aside the termination order. In the said order, it is stated as follows:

27. In view of the, above circumstances, the applicant is justified in challenging the order of termination dated November 24, 2008 (Annexure A-3) issued by the second respondent and confirmation of the same by the first respondent vide

order dated March 9, 2009, terminating the services of the applicant with stigmatic remarks and punitive nature without holding any type of enquiry, giving opportunity to defend his case and such action of the respondents is nothing but violative of principles of natural justice.

22. In the result, the impugned order of termination, terminating the services of the applicant on the post of Chowkidar in proceedings dated November 24, 2008 (Annexure A-3) and confirming the same vide order dated March 9, 2009 (Annexure A-5) by respondents 2 and 1 respectively are set aside and quashed and thus the OA is allowed. No costs.

2. After the order passed by the Tribunal referred to above, the petitioner was reinstated in service by order dated June 22, 2010 subject to the following conditions:

(a) He will be reinstated from the date he actually reports for duty.

(b) No backwages will be paid to him as requested vide his letter dated April 27, 2010.

3. Aggrieved over the said order, the petitioner filed O.A. No. 163/2001 before the second respondent-Tribunal and the Tribunal, by an impugned order dated August 30, 2011, dismissed the O.A. with an observation that the petitioner is a habitual offender and he has not been conducting himself properly while working in the office. Challenging the said order, the present writ petition has been filed by the petitioner seeking for the relief cited supra.

4. Heard the learned counsel appearing for the petitioner and the first respondent and perused the materials available on record.

5. The issue arises for consideration is as to whether the petitioner is entitled for backwages from the date of termination till the date of reinstatement.

6. The petitioner was terminated from service by order dated November 24, 2008. As per the order of the Tribunal dated March 1, 2010 passed in O.A. No. 424/2009, the termination order was set aside and on the representation made by the petitioner, he was reinstated in service with effect from June 28, 2010 by order dated July 26, 2010. The petitioner seeks for backwages from the date of termination from service to the date of reinstatement. We are of the view that once the terminating order is set aside, it is needless to mention that he is entitled for backwages for the said period. In such circumstances, the order of the Tribunal dated August 30, 2011 passed in O.A. No. 183/2011 is set aside holding that the petitioner is entitled for backwages from the date of termination till the date of reinstatement i.e. from November 24, 2008 to June 28, 2010. The writ petition stands allowed accordingly. However, there shall be no order as to costs.