

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2009

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THE HONOURABLE MR.JUSTICE K.CHANDRU

W.P.NO.37615 OF 2006(T)
(O.A.NO.3948 OF 1998)

T.Jayaraman ... Petitioner

Vs.

- 1.Government of Tamil Nadu,
represented by Secretary to
Government,
Department of Agriculture,
Fort St. George,
Chennai-600 009.
 - 2.The Chief Engineer,
(Agricultural Engineering)
Chennai-600 035.
 - 3.Assistant Executive Engineer,
Agricultural Engineering,
Pudukkottai
- .. Respondents

This writ petition is preferred under Article 226 of the Constitution of India praying for the issue of a writ of certiorarified mandamus to call for the records of the first respondent in Government Lr.No.51257/AA.3/97-4, Agriculture Department, dated 10.3.1998 and of the second respondent in Letter No.Me.Pa.3/29739/96, dated 23.4.1998, to quash the said orders and issue consequential directions to the respondents herein to provide appointment to the Petitioner on compassionate grounds consequent on the death of the Petitioner's father, late Thathan, who was working as Junior Tractor Driver in the office of the Assistant Executive Engineer (Agricultural Engineering), Pudukkottai while in service on 21.11.1990.

For Petitioner : Mr.M.Ravi

For Respondents : Mr.R.Neelakantan, GA

ORDER

Heard both sides.

2.This writ petition arose out of O.A.No.3948 of 1998 filed by

the petitioner before the Tamil Nadu Administrative Tribunal. In view of the abolition of the Tribunal, it was transferred to this court and was renumbered as W.P.No.37615 of 2006.

3.The petitioner sought for the issuance of a writ of certiorarified mandamus to call for the records of the first respondent in Government Lr.No.51257/AA.3/97-4, Agriculture Department, dated 10.3.1998 and of the second respondent in Letter No.Me.Pa.3/29739/96, dated 23.4.1998, to quash the said orders and to issue consequential directions to the respondents herein to provide appointment to the applicant on compassionate grounds consequent on the death of the applicant's father, late Thathan, who was working as Junior Tractor Driver in the office of the Assistant Executive Engineer (Agricultural Engineer), Pudukkottai while in service on 21.11.1990.

4.The petitioner, who stake claim for appointment on compassionate grounds on account of the death of his father late Thathan, who worked as a Junior Tractor Driver in the third respondent's office, was informed by the impugned orders that his request for appointment on compassionate ground cannot be granted since he had altered the SSLC mark sheet and was also punished for the misconduct of tampering with the Government records. The petitioner had stated that the punishment of two years debarring him from writing examination was completed on 7.4.1996. Since he had undergone the punishment and even though the validity of SSLC certificate given for examination held in October, 1991 was invalid, the SSLC exam written by him during March, 1991 can be taken in account.

5.In response to his statement, in the reply affidavit, dated 7.1.1999, it was stated as follows:

"11.... it is submitted that since he has committed a blunder even before entering into Government service, it was considered necessary to get the concurrence of Government in the matter. Hence, this matter was referred to Government for considering him for his appointment on compassionate grounds. But, the Government have not accepted and the fact has been informed to him through the office concerned."

6.The Supreme Court had come down heavily upon candidates who secured compassionate appointments by providing false statements and in those cases, it had held that even if a person secures an employment, for terminating such person it is not necessary even to give any show cause notice. The relevant passage found in paragraph 7 of the judgment in A.P. Social Welfare Residential Educational Institutions v. Pindiga Sridhar reported in (2007) 13 SCC 352 reads as follows:

7. The High Court on the basis of the erroneous view

upset the well-merited judgment of the learned Single Judge. By now, it is well-settled principle of law that the principles of natural justice cannot be applied in a straitjacket formula. Their application depends upon the facts and circumstances of each case. To sustain the complaint of the violation of principles of natural justice one must establish that he was prejudiced for non-observance of the principles of natural justice. In the present case, the fact on which the appellant terminated the services of the respondent appointed on compassionate ground was admitted by the respondent himself that when he applied for the post on compassionate ground by his application dated 6-5-1996, his mother was in service. So also when he secured the appointment by an order dated 22-11-2002 his wife was in service since 3-8-1997 as Extension Officer in Rural Development and later on promoted as Mandal Parishad Development Officer at the time when he was appointed on compassionate ground. These facts clearly disclose that the appointment on compassionate ground was secured by playing fraud. Fraud cloaks everything. In such admitted facts, there was no necessity of issuing show-cause notice to him. The view of the High Court that termination suffers from the non-observance of the principles of natural justice is, therefore, clearly erroneous. In our view, in the given facts of this case, no prejudice whatsoever has been caused to the respondent. The respondent could not have improved his case even if a show-cause notice was issued to him.

7. The aforesaid principle laid down by the Supreme Court will apply much more so in a case where a person attempts to enter the Government service with fake mark sheet. Therefore, the petitioner has not made out any case for entertaining his writ petition. The writ petition lacks in merits and accordingly will stand dismissed. No costs.

vvk

Sd/

Asst. Registrar

/true copy/

Sub Asst.Registrar

To

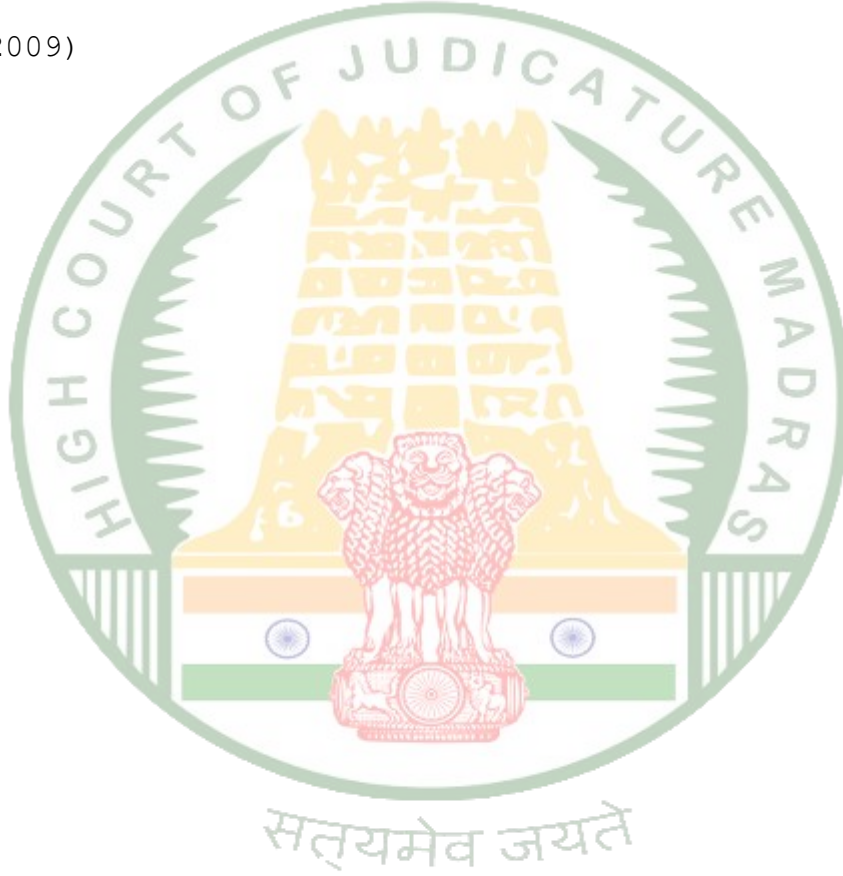
1. The Secretary to Government,
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Chennai-600 009.

2.The Chief Engineer,
(Agricultural Engineering)
Chennai-600 035.

3.The Assistant Executive Engineer,
Agricultural Engineering,
Pudukkottai.
+ 1 CC to Mr.M.Ravi Advocate SR.49775.

PRE DELIVERY ORDER IN
W.P.NO.37615 OF 2006

BKY(CO)
VC(08.10.2009)



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