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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2015

Coram

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) No.16857 of 2015

and

M.P. (MD) No.1 of 2015

C.Nagaraju

:Petitioner

vs.

1.The District Collector,
Ramanathapuram District,
Collectorate,
Ramanathapuram.

2.The Sub-Collector,
Sub-Collector Office,
Paramakudi,
Ramanathapuram District.

3.The Tahsildar,
Taluk Office,
Paramakudi Taluk,
Ramanathapuram District.

: Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the 2nd respondent in his proceedings Roc.A5/4136/2015-2, dated 25.06.2015 and quash the same and consequently direct the respondents to treat the period of suspension as duty-period and to grant all attendant and monetary benefits.

For Petitioner :Mr.M.Saravanakumar

For Respondents :Mr.J.Gunaseelan Muthiah
Govt.Advocate

O R D E R

The petitioner, who is working as Village Assistant, has been placed under suspension, by the impugned order passed by the Sub-Collector, Paramakudi, the 2nd respondent herein, on the sole ground that the 2nd respondent has no authority to place him under suspension.



Servants' (Classification Control and Appeal) Rules, 1983, submitted that the concerned Tahsildar has got an authority to impose a fine not exceeding Rs.200/- along with power to place any village servant under suspension. As against the order of fine, not exceeding Rs.200/- or the order of suspension, if passed by the Tahsildar, appeal remedy is available to the Revenue Divisional Officer. But, in the present case, neither the Tahsildar nor the Revenue Divisional Officer has passed the order. Only the Sub-Collector, Ramnathapuram District, the 2nd respondent herein, without any jurisdiction or legal background, has wrongly passed the impugned order and therefore, the same is liable to go. Adding further, he would submit that, if the order of suspension passed by the incompetent authority is sustained, the petitioner may not be in a position to avail appeal remedy before the Revenue Divisional Officer, who is equivalent to the Sub-Collector.

3. Refuting the said contention, Mr. J. Gunaseelan Muthiah, learned Government Advocate appearing for the respondents submitted that any authority above the appointing authority has got the power to place the petitioner under suspension. Admittedly, in the present case, the Sub-Collector, being an officer above the Tahsildar is also having enough and sufficient power to place the petitioner under suspension.

4. But this Court is not able to find any merits in the submission made by the learned Government Advocate. In this context it is relevant to extract Rules 5 and 6 of the Tamil Nadu Village Servants' (Classification Control and Appeal) Rules, 1983, which reads as under:-

"5. Authority competent to impose penalty.-

The penalties specified in column (1) of the Table below may be imposed on the village servants by the authorities specified in the corresponding entry in column (2) thereof. The authorities to whom an appeal lies are specified in column (3) of the Table.

THE TABLE

Penalties	Authority which may impose the penalty	Authority to whom an appeal lies
(1)	(2)	(3)
Fine not exceeding Rs.20/- or suspension	Tahsildar	Revenue Divisional Officer,
Removal from service or dismissal from service	Tahsildar	Revenue Divisional Officer

Explanation " For the purpose of these rules "Revenue Divisional Officer" includes the Estate Manager in the cadre of Deputy Collector and the Personal Assistant (General) to the Collector of Nilgiris in respect of Coonoor and Othangamandalam Taluks and "Tahsildar" includes the Estate Manager in the cadre of Tahsildar.

6. Appeal.- (1) An appeal under rule 5 shall be filed by the aggrieved person to the Revenue Divisional Officer within thirty days from the date of the receipt of the order, appealed against;



Provided that it shall be open to the Revenue Divisional Officer, to entertain an appeal beyond time if he is satisfied that the delay is due to just and sufficient cause."

(2) The Revenue Divisional Officer may, pending exercise of his powers under sub-rule (1), stay the execution of any order which is the subject matter of appeal."

5. A mere perusal of the above Rules clearly shows that only the Tahsildar alone has got the power to place the petitioner under suspension. Therefore, the impugned order is liable to go.

6. In the result, the Writ Petition is allowed and the impugned order passed by the 2nd respondent in his proceedings in Roc.A5/4136/2015-2, dated 25.06.2015 is hereby quashed. However, it is left open to the respondent to exercise the above mentioned power in accordance with law, if so advised. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The District Collector,
Ramanathapuram District,
Collectorate,
Ramanathapuram.

2.The Sub-Collector,
Sub-Collector Office,
Paramakudi,
Ramanathapuram District.

3.The Tahsildar,
Taluk Office,
Paramakudi Taluk,
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+1cc to M/S.M.Saravana Kumar, Advocate in SR.No 54700

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