



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :03.12.2015

CORAM :

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P(MD)No.21601 of 2015

and

M.P(MD)No.1 of 2015

S.Sekar

.. Petitioner

Vs.

1.The District Collector/Inspector of Panchayats,
Ramanathapuram District,
Ramanathapuram.

2.The Panchayat President cum Executive Officer,
Arasathur Village Panchayat,
Ramanathapuram District.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus by calling for the entire records pertaining to the order passed by the second respondent vide his proceedings, dated 23.11.2015 and quash the same and consequently direct the second respondent to reinstate the petitioner into service as a Sanitary Worker in the second respondent's panchayat.

For Petitioner	: Mr.R.Anand
For R-1	: Mr.J.Gunaseelan Muthiah Government Advocate
For R-2	: Mr.D.Muruganantham, Addl. Government Pleader

O R D E R

Heard both sides.

2. The petitioner is a Sanitary Worker in the second respondent panchayat. He was appointed as a Sanitary Worker on 09.04.2010. While so, he was placed under suspension on 01.06.2015. Thereafter, the said panchayat sent a letter, dated 06.08.2015 directing him to give explanation. Without giving any charge memo, he was directed to give explanation. Furthermore, no enquiry was conducted and the petitioner was simply terminated by the impugned order, dated 23.11.2015. The said order is challenged in this Writ Petition.

3. The impugned order makes it very clear that the same was passed without holding any enquiry. The impugned order of dismissal is passed making allegations that the petitioner failed to discharge his duties and services remaining in service without any intimation. When the allegations are made, the second respondent ought to have conducted proper enquiry before passing the dismissal order. It is well settled that no adverse order



resulting in civil consequence could be passed against an employee without following the principles of natural justice. The principles of natural justice requires that an enquiry is to be held in these type of case before dismissing such employee.

4. The judgment of a learned Single Judge of this Court made in **W.P.No.21668 of 2009(R.Sivakumar vs. The Director of Rural Development Panagal Building and two others)**, is directly on the point. It is useful to extract paragraph Nos.10 to 13 of the said judgment:

10.The petitioner worked as Panchayat Clerk for years together. In case the respondents were of the view that the petitioner failed to attend office, action should have taken to initiate appropriate disciplinary proceedings against the petitioner on account of unauthorised absence. The learned Additional Government Pleader very clearly submitted that no such enquiry was conducted before dismissing the petitioner from service.

11.The resolution passed by the Panchayat would result in serious civil consequences to the petitioner. Being an employee of the Panchayat, the petitioner has got every right to function till the age of superannuation. In case the respondents are of the view that the petitioner indulged in serious misconduct, they should have conducted enquiry by adhering to the principles of natural justice. However the respondents have not adopted a transparent procedure before terminating the petitioner from service.

12. The learned counsel for the petitioner placed reliance on the judgment of this Court dated 22 December 2004 in W.P.No.30847 of 2004 in support of his contention that in similar circumstances this court quashed the order of dismissal and directed the management to proceed from the stage when they received reply from the delinquent.

13. In the subject case, even a show cause notice was not issued to the petitioner. It is an admitted case of the parties that straight away the impugned resolution was passed by the fourth respondent dismissing the petitioner from service. The second respondent without ascertaining as to whether appropriate enquiry was conducted by the fourth respondent rejected the representation given by the petitioner. I am therefore of the view that the petitioner is entitled to succeed.

5. In view of the same, the Writ Petition is allowed and the impugned order of the second respondent, dated 23.11.2015, is quashed and a direction issued to the respondents to reinstate the petitioner forthwith. However, it is made clear that the second respondent is at liberty to proceed in accordance with law. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Per.Admn)



pm
To
1.The District Collector/Inspector of Panchayats,
Ramanathapuram District,
Ramanathapuram.

2.The Panchayat President cum Executive Officer,
Arasathur Village Panchayat,
Ramanathapuram District.

+1CC to Mr.R.Anand Advocate Sr.No.69890
+1CC Spl.Government Pleader Sr.No.69422

GJM/PM/MP/14.12.2015-3P-5C

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