

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.05.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

Writ Petition No.18546 of 2016

L.Balabathiran

... Petitioner

Vs.

1. The District Collector,
Thiruvallur District,
Thiruvallur.
 2. The District Revenue Officer,
O/o. Collectorate Office,
Thiruvallur, Thiruvallur District.
 3. The Revenue Divisional Officer,
Thiruthani Head Quarters,
Thiruthani, Thiruvallur District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance of writ of mandamus directing the 1st respondent to consider the petitioner's representation dated 18.04.2016 and thereby direct the 1st respondent to reinstate the petitioner into service since 11.07.2001 with all service benefits and back wages to the petitioner.

For Petitioner : Mr.B.Gopalakrishnan

For Respondents : Mrs.P.Kavitha,
Government Advocate.

ORDER

By consent, the writ petition itself is taken up for final disposal.

2. The case of the petitioner is that he was appointed as Village Administrative Officer by the respondents on 05.07.1999 and he was worked as Village Administrative Officer at Mambakkam Village, Thiruthani Taluk, Thiruvallur District. Later on, he was suspended from his service on the ground that he has produced bogus 10th mark sheet and got the appointment as Village Administrative Officer.

3. Pursuant to the above suspension, a criminal case was registered in Crime No.46 of 2004 for the offences under Sections 465, 468 and 471 of I.P.C on the file of R.K.Pettai Police Station, Tiruvallur District. Subsequently, charge sheet was filed and the same was taken on file in C.C.No.79 of 2005 on the file of the learned Judicial Magistrate, Thiruthani. Simultaneously, departmental proceedings was also initiated. After the trial proceedings by the learned Judicial Magistrate, Thiruthani, the petitioner was acquitted on 28.09.2007 from all the above charges on the ground that no forgery or tampering of records was done by the petitioner by producing the above 10th mark sheet.

4. Later on, the petitioner challenged the suspension order passed by the Tahsildar, Pallipattu dated 11.07.2001, along with other three persons, who were also suspended for the same cause and filed O.A.No.4515 of 2001 before the Tamil Nadu Administrative Tribunal and the Tribunal also initially granted interim stay of charge memo. But, later on a direction was issued to complete the departmental proceedings within a time frame manner. Accordingly, the third respondent herein in his proceedings in Na.Ka.No.1895/2001/A1 dated 11.11.2003, conducted enquiry and come to the conclusion that what are the charges leveled against the petitioner are proved. Thereafter, the petitioner has made a statutory appeal before the second respondent on 07.12.2012. But, no action was taken by the second respondent. Hence, the petitioner approached this Court by filing a writ petition in W.P.No.34521 of 2012 and on 21.12.2012, this Court directed the second respondent to dispose the petitioner's appeal within a stipulated period.

5. Pursuant to the orders of this Court, the second respondent passed an order on the petitioner's appeal and confirmed the order of punishment passed by the third respondent.

6. The learned counsel appearing for the petitioner put forth his argument before this Court that when the petitioner was acquitted from the criminal case by the learned Judicial Magistrate, Thiruthani in C.C.No.79 of 2002 dated 28.09.2007, the departmental proceedings, on the same charges, removing him from service, is illegal. He has also argued that though he is having the right of revision before the first respondent, but due to his ill health and continuous suffering in the family, he has not made any revision before the concerned authority. But the case of the petitioner is that once the criminal Court is acquitted the petitioner from all charges, he is entitled for reinstatement in service and get back the service benefits from the date of removal viz., 11.07.2001.

7. For the above reasons, he has given a representation on 18.04.2016 to the first respondent with a request to cancel the orders of punishment passed by the third respondent, which was confirmed by the second respondent and for a consequential direction to reinstate the petitioner into service. Since the same was not considered by the first respondent, he has approached this Court by way of this writ petition seeking a direction to the first respondent to consider his representation dated 18.04.2016 and for a direction to reinstate the petitioner into service with all service benefits and back wages to the petitioner.

8. Heard the Submissions of Mr.B.Gopalakrishnan, the learned counsel appearing for the petitioner and Mrs.P.Kavith, learned Government Advocate appearing for the respondents.

9. Though the petitioner is having right to file a revision petition, he has sent a representation only on 18.04.2016 to the first respondent stating that he was acquitted from the criminal charges by the competent criminal Court and no appeal was filed by the Government against the said conviction and that once the petitioner is acquitted from the alleged charges by the competent criminal Court, the department has no right to proceed against the petitioner and pass orders removing him from service.

10. Therefore, I am inclined to issue a direction to the first respondent to pass an appropriate orders on the petitioner's representation dated 18.04.2016, by affording an opportunity of personal hearing to the petitioner and pass orders on the same within a period of four weeks from the date of receipt of a copy of this order.

This Writ Petition is disposed of accordingly. No costs.

Sd/-

Vacation Officer

//True Copy//

Sub Assistant Registrar

vsm

To

1. The District Collector,
Thiruvallur District,
Thiruvallur.

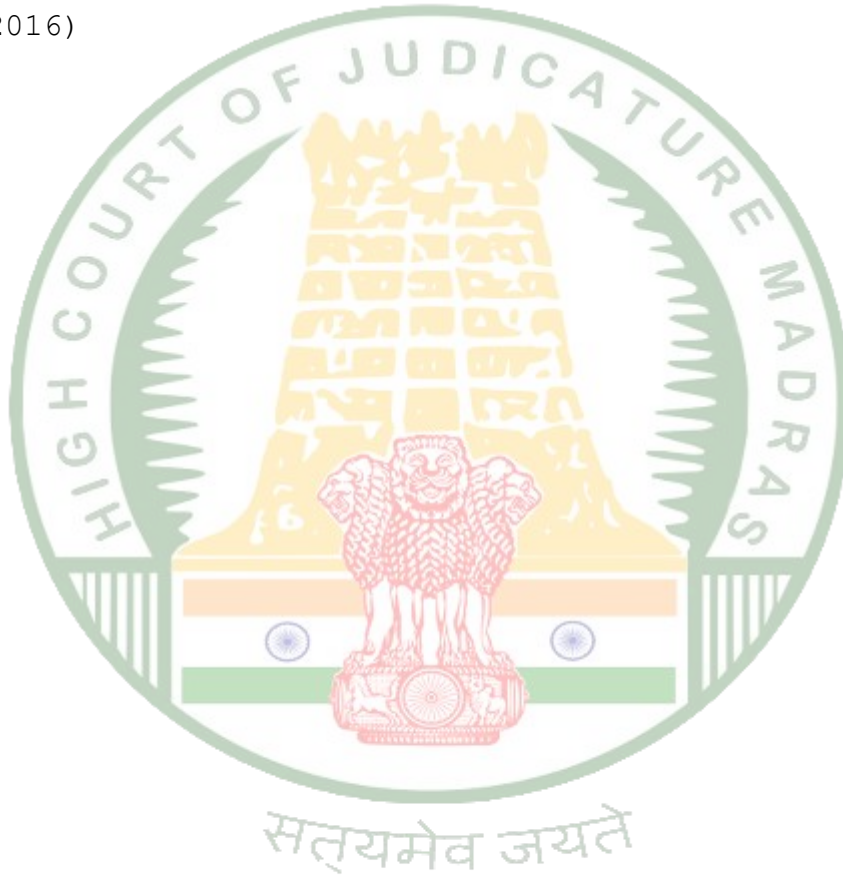
2. The District Revenue Officer,
O/o. Collectorate Office,
Thiruvallur, Thiruvallur District.

3. The Revenue Divisional Officer,
Thiruthani Head Quarters,
Thiruthani, Thiruvallur District.

+1cc to Mr.B.Gopalakrishnan, Advocate, S.R.No.28912
+1cc to the Government Pleader, S.R.No.28950

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EV(CO)
CA(02/06/2016)



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