

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Appeal No.921 of 2016

N.Kothandan

...Appellant

Vs.

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

2.The Assistant Director of Panchayats
Kancheepuram District

3.The Block Development Officer
Walajabad Block/Panchayat Union
Kancheepuram District

4.The President
Ayimicherri Village Panchayat
Walajabad Block/Panchayat Union
Kancheepuram District

... Respondents.

Writ Appeal filed against the order dated 27.11.2015 passed in W.P.No.17079 of 2014. Petition under Article 226 of the constitution of India, to issue writ of Mandamus, directing the 3rd respondent herein to consider and pass order on the petitioner's representation dated 19.05.2014.

For Appellant : Mr.S.Sadasharam

For Respondents : Mr.P.S.Sivashanmuga Sundaram,
Special Government Pleader

JUDGMENT

(Judgment of the Court was made by HULUVADI G. RAMESH, J.)

Heard Mr.S.Sadasharam, learned counsel for the appellant and Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader, appearing for the respondents.

2. The case of the appellant/Writ Petitioner is that he met with an accident and sustained head injuries, due to which, he suffered headache often and hence applied for medical leave w.e.f. 01.09.2012. The 4th respondent forwarded the letter to the 3rd respondent for sanctioning the leave to the petitioner. In the meanwhile, the 4th respondent was permitted to engage a temporary employee. After completion of the treatment, when the petitioner requested the 5th respondent to permit him to join the duty, he was informed that a lady was appointed in his place and when he approached the other respondents, the 4th respondent, hurriedly obtained signatures from the ward members in the minutes book as if they accepted the resignation of the petitioner on 17.09.2012 and the panchayat resolved to appoint one Mrs.M.Anbukarasi as Panchayat Assistant. In this regard, petitioner made representation to the respondents 1 to 3 and when no order has been passed in the representation preferred by him, the appellant herein filed the writ petition, seeking direction to the 3rd respondent to pass orders.

3. The learned Single Judge, after taking note of the averments made in the Writ Petition and the counter affidavit pointed out that the petitioner applied for medical leave on 26.08.2012 w.e.f. 01.09.2012, but he has not produced any proof to substantiate his case and the petitioner has not produced any acknowledgement for the representations said to have been sent by him in the year 2013 and prior to May 2014 and the petitioner has not challenged the resolutions of the Panchayat and appointment of Mrs.Anbukarasi. On such finding, the learned Single Judge dismissed the prayer sought for by the Writ Petitioner. Aggrieved by the same, this Writ Appeal is filed.

4. The learned counsel for the appellant submits that if enquiry had been conducted giving reasonable opportunity of being heard to the appellant, following the representation of the appellant dated 19.05.2014, he would have explained the circumstances for taking leave. He further submits that the 4th respondent to accommodate an individual of their choice, have created some fabrication in the documents and thereby passed illegal resolution. He also contended that the 4th respondent made to show that the appellant/writ petitioner tendered resignation which he never anticipated nor decided to. The learned counsel for the petitioner also submits that the learned Single Judge, has not properly considered the contentions raised by the petitioner that he only submitted letter requesting leave and not the resignation letter.

5. We have carefully heard the submissions made by the learned counsel for the appellant and also the learned Special Government Pleader.

6. We are of the considered view that this court cannot make any roving enquiry into the very aspect of the contents of the letter addressed to the 4th respondent. Hence, it is for the 2nd respondent/Assistant Director of Panchayats, Kancheepuram, to consider the case of the appellant and his contentions as regards the letter submitted by him dated 26.08.2012 and go into the question of whether the said letter was originally made by the appellant or some bogus entries made and thereafter, pass appropriate orders in accordance with law after giving due opportunity to the petitioner. The above said exercise shall be completed within 6 weeks from the date of receipt of a copy of this order.

7. The Writ Appeal is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector/
Inspector of Panchayats,
Kancheepuram District
- 2.The Assistant Director of Panchayats
Kancheepuram District
- 3.The Block Development Officer
Walajabad Block/Panchayat Union
Kancheepuram District
- 4.The President
Ayimicherri Village Panchayat
Walajabad Block/Panchayat Union
Kancheepuram District

+lcc to Mr.S. Sadasharam, Advocate, S.R.No.48577
+lcc to the Government Pleader, S.R.No.49157

UG(CO)
EU(07/09/2016)

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