



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2016

CORAM :

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.17852 of 2015

G.Ayyadurai

... Petitioner

vs.

The Revenue Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.

... Respondent

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondent to pay the scale of salary with effect from 08.12.2011 to 26.08.2012 by treating the period as qualifying and continuity of service notionally for the post of Village Assistant at Kadambankulam village office, Virudhunagar Taluk, Virudhunagar District on the basis of the petitioner's representation dated 01.07.2014.

For Petitioner : Mr.M.Subash Babu

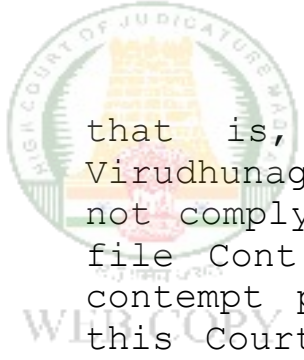
For Respondent : Mr.M.Murugan, Government Advocate

ORDER

This Writ of Mandamus has been filed for a direction to the respondent to pay salary to the petitioner for the period from 08.12.2011 to 26.08.2012, by treating the period as qualifying service and continuity of service notionally in the post of Village Assistant at Kadambankulam Village Administrative Office, Virudhunagar Taluk, Virudhunagar District, on the basis of the petitioner's representation dated 01.07.2014.

2.The background facts leading to the filing of the writ petition runs as under:-

The petitioner joined the service in the year 1985 as Thalayari. During that time, a transfer order was issued to him. He challenged the order of transfer in W.P.No.14828 of 2011 and this Court was pleased to pass an order of status-quo dated 10.01.2012. Subsequently, the petitioner approached the 1st respondent and submitted a representation, dated 12.01.2012, seeking to post him in the earlier place, where he was working,



that is, at Kadambankulam Village Administrative Office, Virudhunagar Taluk, Virudhunagar District. The respondent did not comply with the order and that compelled the petitioner to file Cont.P(MD)No.142 of 2012, and only after filing of the contempt petition, the respondent complied with the order of this Court and the petitioner joined in the earlier place on 27.08.2012 and thereafter also, he was transferred and finally, he attained the age of superannuation on 31.03.2016.

3.It is the grievance of the petitioner that the salary for the period from 08.12.2011 to 26.08.2012, has been declined to the petitioner, on the ground that during that period he was not actually working. The learned counsel for the petitioner would submit that the non working of the petitioner on those period, was not on account of the conduct of the petitioner, but it was on account of the wilful disobedience of the orders of this Court, by the 1st respondent, in not providing job to the petitioner. It is also pointed out that the petitioner had been consistently fighting against the 1st respondent, for not giving him job and in fact, filed petitions before this Court, seeking direction to the respondent to provide job and therefore, he must be treated as a person to have been continued in service, even though he did not actually perform any duty during that time.

4.The contention of the petitioner is justified in view of the proceedings initiated before this Court and therefore, the 1st respondent having not complied with the order of this Court, cannot be heard to say that he will not make payment for the period from 08.12.2011 to 26.08.2012. Therefore, the representation has been correctly given by the petitioner and that ought to have been considered by the respondent.

5.Therefore, this writ petition is allowed, directing the respondent to grant salary to the petitioner, for the period from 08.12.2011 to 26.08.2012, by treating the said period, as duty period having been in continuous service, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar



nbi

To

The Revenue Tahsildar,
Virudhunagar Taluk,
Virudhunagar District.

+1CC to Mr.M.Subash Babu, Advocate Sr.No.67492

+1CC to Spl.Government Pleader S.No.67423

GJM/KM/25.11.2016-3p-4C

W.P (MD) No.17852 of 2015
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