



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

W.P. (MD) No. 3435 of 2011

G. Moorthi

... Petitioner

Vs.

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

2. The Assistant Block Development Officer,
Panchayat Union Office,
Kamuthi Union,
Ramanathapuram District.

3. The President,
Kombuthi Village Panchayat,
Kombuthi Post,
Kamuthi Taluk,
Ramanathapuram District.

... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd Respondent in Na.Ka.2/2009 dated 20.07.2009 and to quash the same as illegal and consequently direct the 3rd Respondent to reinstate the petitioner in service with full back wages, continuity of services and all other consequential benefits.

For Petitioner : Mr. M. Kannan

For 2nd and 3rd Respondents: Mr. V. Muruganantham
Addl Government Advocate

O R D E R

The prayer in the writ petition is for a Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd Respondent in Na.Ka.2/2009 dated 20.07.2009 and to quash the same as illegal and consequently direct the 3rd Respondent to reinstate the petitioner in service with full back wages, continuity of service and all other consequential benefits.

<https://hcservices.ecourts.gov.in/hcservices/>
2. The petitioner, while he was working as Panchayat Assistant at the 3rd respondent Panchayat has been given a charge memo, for which explanation was called for from the petitioner



by the third respondent. Explanation was also submitted by the petitioner on 14.07.2009. However, after getting the explanation from the petitioner, no enquiry was conducted by the third respondent and without conducting any enquiry, the third respondent has passed the impugned order straightaway on 20.07.2009, by merely considering the explanation given by the petitioner and through the impugned order the third respondent has stated that all the charges framed against the petitioner had been proved. Challenging the said order dated 20.07.2009, by which the petitioner has been removed from service with effect from 20.07.2009, the present writ petition has been filed on the ground that no enquiry was conducted before imposing a major penalty of removal of service.

3. Heard both sides.

4. The learned counsel for the petitioner submits that though the writ petition has been filed challenging the said impugned order, the petitioner has also filed appeal under G.O.Ms.No.175 Rural Development Department dated 05.12.2006 against the impugned order to the second respondent. Pursuant to the said appeal filed before the second respondent, the second respondent in fact by letter dated 07.09.2009, directed the petitioner to appear for enquiry on 14.09.2009. However, subsequently, by further letter of the second respondent dated 22.09.2009, it was informed that since the petitioner has already approached this Court by way of a writ petition claiming salary and the same was pending before this Court for consideration, the appeal filed by the petitioner cannot be proceeded at that moment. Therefore the appeal has not been taken for hearing and the appeal is still pending. In the circumstances, the learned counsel for the petitioner submitted that though the writ petition has been filed with the above prayer for a larger relief, since the appeal filed is pending before the second respondent and the same has not been proceeded for the alleged reason that writ petition seeking salary is pending before this Court, the petitioner would be satisfied if a direction is issued in this writ petition to proceed further the said appeal of the petitioner and decide the same within the time stipulated by this Court.

5. The learned Additional Government Pleader was also put on notice and has been heard. He submits that appeal has been filed the petitioner and the same could not be decided because of the pendency of the writ petition, by which the petitioner is claiming salary.

6. This Court considered the above said submissions made by the respective learned counsel appearing for the parties.



7.This Court is of the view that pendency of the writ petition with regard to claim of salary cannot stand in the way of proceeding with the appeal preferred by the petitioner on merits and in accordance with law by the second respondent, before whom the said appeal stands pending for a long time.

8.In the result the Writ Petition is disposed of with the following directions:

The second respondent is directed to take the appeal filed by the petitioner as confirmed by the second respondent by his letter dated 07.09.2009 and decide the same on merits, of course after giving reasonable opportunity of hearing to the petitioner and such endeavour shall be completed within a period of three months from the date of receipt of a copy of this order. It is needless to state that once the appeal is decided either in favour of the petitioner or otherwise, the petitioner's liberty to face the same in the manner known to law will not be curtailed. No costs.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The Inspector of Panchayats cum District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Assistant Block Development Officer,
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- 3.The President,
Kombuthi Village Panchayat,
Kombuthi Post,
Kamuthi Taluk,
Ramanathapuram District.

+1cc to Mr.M.Kannan, Advocate in SR No.81365

+1cc to the Spl.Govt.Pleader in SR No.81616

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