

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.04.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.8311 of 2017 and
W.M.P. Nos.9097 and 9133 of 2017

R.Rajagopal

... Petitioner

-vs-

1.The State of Tamil Nadu rep. by
The Secretary to Government,
Rural Development Department,
Secretariat, Chennai-9.

2.The Director,
Rural Development & Panchayats,
Panagal Building, Chennai-15.

3.The District Collector,
Coimbatore District,
Coimbatore.

4.Asokapuram Village Panchayat
rep. by the President,
Asokapuram Panchayat,
Periyanaickanpalayam Panchayat Union,
Coimbatore District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the first respondent to pass order on the report of the second respondent dated 07.04.2016 in his Proc.Na.Ka.No.66615/13/TPC 2-2 by setting aside the dismissal passed by the third respondent in his Proc.Roc.No.4644/2012/T5, dated 13.09.2012 and consequently direct the respondents to re-instate the petitioner in service before proceeding further with arrears of salary.

For Petitioner : Mr.R.Singaravelan
Senior Counsel for
Ms.M.Srividhya

For Respondents: Mr.T.M.Pappiah,
Special Government Pleader
for R1 to R3

O R D E R

This writ petition has been filed by the petitioner seeking a direction to the first respondent to pass orders on the report of the second respondent dated 07.04.2016 vide Proc. Na.Ka.No.66615/13/ TPC 2-2 by setting aside the dismissal order passed by the third respondent vide Proc. Roc.No.4644/2012/T5, dated 13.09.2012 and to re-instate the petitioner in service with arrears of salary.

2.Mr.R.Singaravelan, learned senior counsel appearing for the petitioner would submit that the petitioner was dismissed from service by order dated 26.08.2013 and therefore, he preferred an appeal dated 15.10.2013. As the same was pending for a quite long time, he has given reminders dated 23.01.2014 and 26.05.2014 requesting to dispose of his appeal. Finally, by impugned proceedings dated 07.04.2016, the Director, Rural Development and Panchayats, Chennai, the second respondent herein has passed an order requesting the first respondent to pass suitable orders, indicating several flaws in the departmental enquiry. He would further submit that instead of directing the District Collector, Coimbatore District/the third respondent herein, the second respondent has wrongly addressed the first respondent, who is not an appropriate authority at this stage to pass any order.

3.Learned Special Government Pleader appearing for respondents 1 to 3 would fairly submit that the second respondent/the Director Rural Development and Panchayats, Chennai have rightly considered the errors committed by the Disciplinary Authority, who passed the order of dismissal and the matter should have been remitted back to the said Disciplinary authority, namely, the District Collector and therefore in any event, the matter has to be re-considered only by the District Collector, who has passed the order of termination.

4.In view of the submissions made on either side, this Court, accepting the statement made by the second respondent to the effect that the termination order was passed with the flaws indicated in para Nos.1, 2 and 3 of the order dated 07.04.2016, remanding back the matter to the third respondent, who has passed the termination order instead of the first respondent, the third respondent is hereby directed to consider the case of the petitioner afresh by considering the errors indicated by the second respondent in the order dated 07.04.2016, within a period of two months from the date of receipt of a copy of this order. Accordingly, the impugned order is partly allowed to the extent it requires the first respondent to pass suitable order and the order of remand is however affirmed.

5.It is submitted by the learned counsel for the petitioner that from the date of suspension till date, the petitioner has not been paid with the subsistence allowance. Therefore, the District Collector shall look into this issue and if the petitioner is right in making his statement that he was not paid with the subsistence allowance from the date of suspension, the same shall be paid forthwith.

6.With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected WMPs are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vga
To

1.The Secretary to Government,
The State of Tamil Nadu
Rural Development Department,
Secretariat, Chennai-9.

2.The Director,
Rural Development & Panchayats,
Panagal Building, Chennai-15.

3.The District Collector,
Coimbatore District, Coimbatore.

+1cc to Mrs.M.Srividhya, Advocate Sr.21172
+1cc to the Government Pleader Sr.21338

W.P. No.8311 of 2017

kk[col]
srg 27/04/2017

WEB COPY