

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

W.A.No.1400 of 2017

and

CMP.No.19139 of 2017

1. The District Collector
Dharmapuri District,
Dharmapuri - 5.
2. The Assistant Director,
Rural Development and Panchayat Department,
Dharmapuri District,
Dharmapuri - 5.
3. The Commissioner/
Block Development Officer,
Dharmapuri Panchayat Union,
Dharmapuri, Dharmapuri District.
4. The President,
Mookkanur Panchayat,
Mookkanur,
Dharmapuri Taluk & District. ... Appellants

vs.

R.Venkatesan

सत्यमेव जयते ... Respondent

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 07.07.2017 passed by a learned Single Judge of this Court in WP.No.6349 of 2013.

W.P.No.6349 of 2013:

Writ Petition filed under Article 226 of the constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the fourth respondent panchayat in reference NIL dated 10.8.2011 and quash the same consequently direct the respondents to reinstate the petitioner as Panchayat Assistant of 4th respondent Panchayat with continuity of service and with full back wages and other attendant benefits.

For Appellants : Mr.V.Jayaprakash Narayanan, SGP
For Respondent : Mr.M.R.Jothimanian

JUDGMENT

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

Challenging the correctness of the order passed by a learned Single Judge in WP.No.6349 of 2013, the State has come up with the present writ appeal.

2.For the sake of convenience, the parties are referred to as per their rank in the writ petition.

3.By the impugned order, the learned Single Judge has allowed the said writ petition by setting aside the order of termination dated 10.08.2011 passed by the fourth respondent and directed the respondents to reinstate the petitioner into service with all consequential benefits within a period of two weeks from the date of receipt of that order.

4.The necessary facts of the case are that the petitioner was appointed as Panchayat Assistant in the fourth respondent Panchayat on 06.11.1998 and his service was regularized vide G.O.Ms.No.175 Rural Development (E5) Department, dated 05.12.2006. Due to family dispute, he was implicated in a criminal case in Crime No.507 of 2010, due to which, he was suspended from service, by order dated 12.10.2010. Consequent to the same, he was removed from service, by the order of the fourth respondent dated 10.08.2011, against which, he preferred the aforesaid W.P.No.6349 of 2013. The learned Single Judge allowed the said writ petition on the ground that the fourth respondent is not a competent authority to initiate or pass orders of termination as against the petitioner. Hence, this writ appeal.

5.According to the learned Special Government Pleader appearing for the State, the action said to have been taken by the fourth respondent, took place before the amendment, as per which, the fourth respondent, viz., the Panchayat President, being the competent authority, can pass the order, terminating the petitioner from service, whereas, the same is disputed by the learned counsel for the petitioner. It is the further case of the petitioner that before passing such order, no enquiry was conducted and no charge memo was issued to him.

6.In view of the contentions raised on either side, we are of the opinion that there are certain disputed questions involved in this matter. In such circumstances, we deem it appropriate to remand the matter to the learned Single Judge for considering it afresh, with liberty to the parties to agitate

their respective contentions before the learned Single Judge.

7. Accordingly, the writ appeal is allowed by setting aside the order impugned herein. The matter is remanded to the learned Single Judge with a request to consider all the contentions to be raised by the respective parties and pass orders on merits and as per law. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

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Mookkanur,
Dharmapuri Taluk & District.

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The Sub Assistant Registrar
Writ Section, High Court, Madras.
(for listing the case before appropriate court)

+1 CC to Mr.M.R. Jothimanian, advocate sr 83190.

+1 CC to Mr.V. Jayaprakash Narayanan, Advocate sr 82982.

W.A.No.1400 of 2017

NRK(CO)
SP(24/01/2018)