

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.2842 of 2014

and

W.M.P.No.1 of 2014

T.Rajalakshmi

... Petitioner

Vs.

1.The Collector,
Tiruppur District.

2.The Block Development Officer,
(Block Panchayats),
Moolanur, Tiruppur District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent in Na.Ka.No.03/2013/A1 dated 29.01.2013 and quash the same and direct the respondents to reinstate the petitioner in service with all attendant benefits.

For Petitioner : Mr.P.Mohanraj & P.Manojkumar

For Respondents : Mr.R.Vijayakumar
Additional Government Pleader

O R D E R

The order of suspension issued against the writ petitioner by the first respondent in proceedings dated 29.01.2013 is under challenge in this writ petition.

2.The learned counsel appearing for the writ petitioner states that the writ petitioner was working as a Noon Meal Organiser at the Panchayat Union Primary School, Krishnapuram, Moolanur Block, Tiruppur District. The first respondent issued the order of suspension in proceedings dated 29.01.2013, on the ground that a criminal case was registered against the petitioner by the Anti Land Grabbing Cell, Tiruppur. Thus, it is clear that the writ petitioner was arrayed as an accused in the case registered by the Anti Land Grabbing Cell, Tiruppur, in respect of a land grabbing case. However, the criminal case is not relating to the duties and responsibilities of the writ

petitioner. The learned counsel further states that even the charge sheet has not been filed in the criminal case and it is pending without any progress for the past about 4 ½ years.

3.The learned Additional Government Pleader appearing on behalf of the respondents is also unable to dispute the fact with regard to the registration of the criminal case and not filing the charge sheet in the criminal case. This being the factum of the case, keeping the writ petitioner under suspension for an unspecified period is not desirable.

4.The employee can be placed under suspension in order to continue the disciplinary proceedings. The order of suspension is not a punishment and it is only keeping the employee away from the office for conducting the Departmental Disciplinary Proceedings.

5.Keeping an employee under suspension for an indefinite period cannot be accepted since the State has to pay the subsistence allowance without extracting any work from the employee. Paying the subsistence allowance without extracting any work will also become a loss to the State Exchequers. Contrarily, the competent authorities shall revoke the order of suspension and post the delinquent employee in a non-sensitive post, so as to extract the work and pay full salary. This apart, in the case on hand the criminal case registered in respect of land grabbing no way connected with the duties and responsibilities in connection with the department. Such being the factum of the case, keeping the writ petitioner under suspension for more than 4½ years will not serve any purpose and certainly, it is a loss for the State Exchequers. Thus, the writ petitioner shall be posted in any one of the non-sensitive post till the criminal case is completed or the Departmental Disciplinary Proceedings are completed. In this view of the matter, the order impugned is not in accordance with the principles relating to the matter of suspension.

6.Thus, the impugned order passed by the first respondent in proceedings in Na.Ka.No.03/2013/A1 dated 29.01.2013 is quashed and the respondents are at liberty to post the writ petitioner in any one of the non-sensitive post. The learned counsel appearing for the writ petitioner states that the subsistence allowance has not been paid to the writ petitioner. Once an employee is placed under suspension, the right of subsistence allowance cannot be denied and therefore, the respondents have to consider the same in accordance with the rules.

7. Accordingly, the writ petition stands allowed. However, there is no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

ah/dna

To

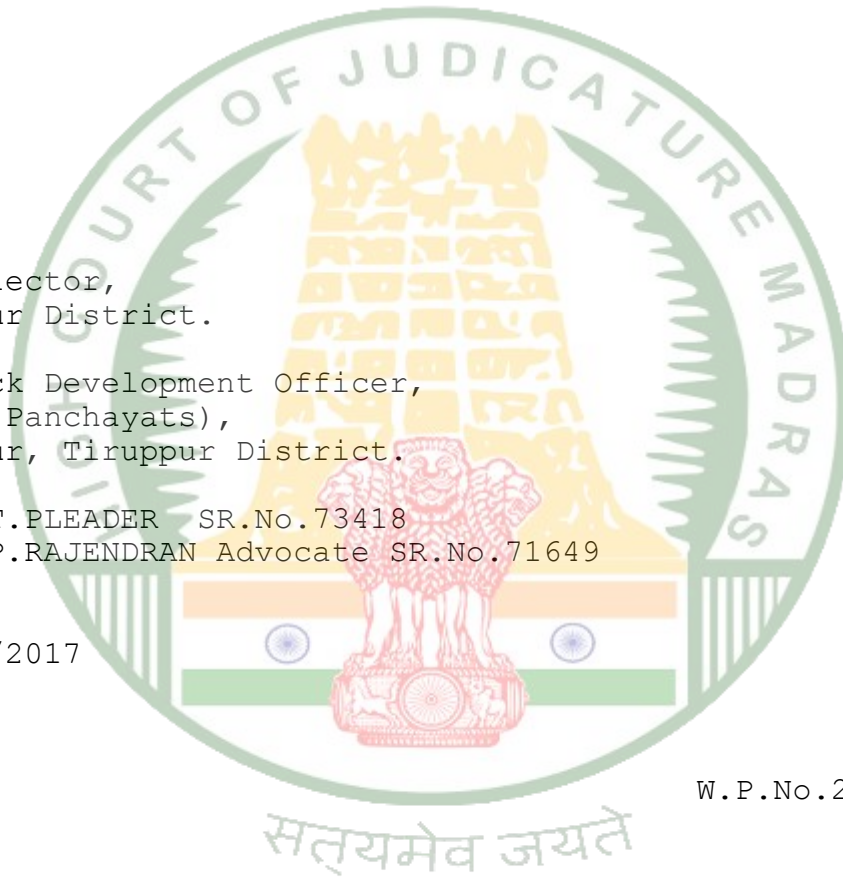
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Tiruppur District.

2. The Block Development Officer,
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Moolanur, Tiruppur District.

+1 CC GOVT. PLEADER SR.No.73418

+1 CC Mr.P.RAJENDRAN Advocate SR.No.71649

KJI (CO)
EGR 20/11/2017



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