

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.6341 of 2011
and
M.P.Nos.1 and 2 of 2011

M.Veerappan

... Petitioner

vs.

The Director of Town Panchayats,
Kuralagam,
Chennai - 600 108.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondent relating o the impugned proceedings issued in (1) Charge Memo in ROC No.1686/2011/A1, dated 28.1.2011 and (2) the consequential suspension order in Roc.No.1686/2011-I/1A dt. 28.1.2011 and (3) the consequential order not allowing the petitioner to retire from service in Roc.No.1686/2011-2/A1 dt. 28.1.2011 and to direct the respondent to allow the petitioner to retire from service on the date of retirement i.e. on 31.1.2011 with all consequential benefits including the disbursement of retirement benefits with interest.

For petitioner : Mr.G.Sankaran

For respondents : Mr.S.Navaneetham
Additional Government Pleader

ORDER

This Writ Petition has been filed by the petitioner challenging the Charge Memo dated 28.1.2011, the consequential suspension order dated 28.1.2011, the consequential order not allowing the petitioner to retire from service and also for a direction to direct the respondent to allow the petitioner to retire from service on the date of retirement i.e., on 31.1.2011 with all consequential benefits including the disbursement of retirement benefits.

2. It is submitted by the learned counsel for the petitioner that while the petitioner was working as Executive Officer of Udangudi Town Panchayat, he is alleged to have committed certain irregularities in laying Cement Concrete Road and as such, charges were framed against him by the Government. As the charges pertain to lack of supervisory nature and certain technical parameters in execution of road works, for which, he may be not be made responsible. It is further submitted by the learned counsel for the petitioner that most of the audit paras based on which charges were framed have been dropped/settled and that charges were framed with ulterior motive to harass the petitioner. The few pending paras have also been settled during the pendency of the Writ Petition. The details of charge count and the settlement of dues are given below.

Sl. No.	Audit Paras	Year	Details of dropping/deletion of audit paras	Typed Set of Papers Page No.
1	Para 30 (1,3)	2002-03	For 30(1) has been recovered. In respect of Para 30(3), SPC.No.92/2004 is pending before the District Munsif Court, Alangudi in Pudukottai District and appropriate action has been taken	Page Nos.36 & 37 of Additional Typed Set of Papers
2	Para 35	2002-03	In this regard para is pending but, however, the petitioner has been released from responsibility as per the proceedings in Na.Ka.No.1735/2001 dated 02.09.2011.	Page No.22 of Additional typed set of papers
3	Para 37 (4)	2002-03	The audit para has been settled by the Assistant Director as well as District Collector as per proceedings dated 2.9.2011.	Page No.22 of Additional Typed Set of Papers
4	Para 52	2002-03	The charge has been subsequently dropped as per proceedings of District Collector dated 02.9.2011	Page No.22 of Additional Typed Set of Papers

5	Para 42	2003-04	The audit para is still pending but, however, the response of the petitioner has been ruled out.	Page No.22 of Additional Typed Set of Papers
6	Para 43	2003-04	The audit para is still pending; it relates to the BSNL not making payment of rent of Rs.5,00/- . Whereas action being taken by EO Town Panchyat Karambaikudi.	
7	Para 47	2003-04	The related to time bar arrears of tax and the petitioner's responsibility has been removed.	Page 22 of additional typed set of papers
8	Para 12	2007-08	The para has been settled even prior to framing of charge memo as per the proceedings of Assistant Director, Local Fund Audit, Dindigul, dated 25.8.2010	Page 19 of original Typed set of papers
9	Para 13	2008-09	The audit para has been settled as per the proceedings of Local Fund Audit, dated 26.10.2010.	Page 20 of original Typed set of papers
10	Para 42	2008-09	The para settled as per the Local Fund Audit dated 27.07.2010	Page 18 of original Typed set of papers
11	Para 44	2008-09	The para settled as per the Local Fund Audit dated 27.07.2010.	Page 18 of original Typed set of papers
12.	Para 45	2008-09	The para settled as per the Local Fund Audit dated 27.07.2010.	Page 18 of original Typed set of papers

13	Para 51	2008-09	The para has been settled by the proceedings of AD, LF Dindigul as well as Regional Deputy Director, LF, Madurai, as per the proceedings, dated 26.10.2010 and 20.01.2011, respectively.	Page 20 of original Typed set of papers as well as Page 21 of additional Typed Set of Papers
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3. According to the learned counsel for the petitioner, in view of the fact that audit paras have been settled, there is no basis for the respondent to proceed on the charge memo and therefore, the Writ Petition is liable to be allowed and the petitioner is entitled for all the relief stated in the prayer of the Writ Petition. In support of his contention, the learned counsel for the petitioner has also brought to the attention of this Court that the case in STC No.92 of 2004 pending on the file of the learned Judicial Magistrate Court, Alangudi, was also disposed of in favour of the petitioner. As such, the learned counsel for the petitioner contends that as the petitioner has been exonerated of almost all the charges, he shall be permitted to retire from the service and avail all consequential benefits.

4. On the other hand, learned Additional Government Pleader assailed the contention of the petitioner by filing counter affidavit. Though the petitioner has given a statement that almost all the audit paras have been settled, the learned Additional Government Pleader contended that since a duty casts on the petitioner to collect the dues which were due to the Town Panchayat and the laxity on the part of the petitioner has resulted in causing loss to the Town Panchayat funds. During the tenure of the petitioner as Executive Officer in Karambakudi and Oddanchatram Town Panchayat, a loss of Rs.38.75 lakhs has been caused to the Town Panchayat. Therefore, the petitioner is not entitled to any benefits as sought for by him and the Writ Petition is liable to be dismissed.

5. Considering the facts and submissions made by both the parties, this Court is of the view that if the petitioner as contended by him has been exonerated of the charges by the respondent, he may be given liberty to make a representation to the respondent seeking for those reliefs. Accordingly, liberty is granted to the petitioner to make a representation for all those benefits sought herein before the respondent by placing relevant materials in support of his contention of exoneration of charges or settlement/drop of charges, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the respondent

shall consider the representation and pass appropriate orders within a period of 8 weeks thereafter, on merits and in accordance with law.

6. With the above direction, the Writ Petition is disposed of. Connected Miscellaneous Petitions are closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

asvm

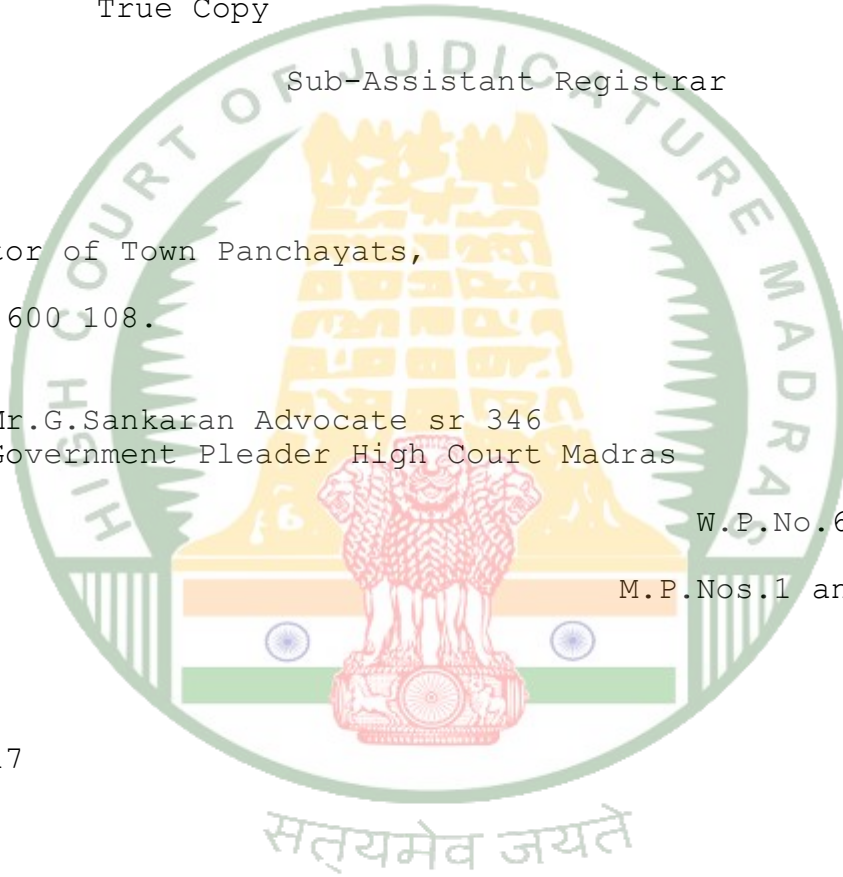
To

The Director of Town Panchayats,
Kuralagam,
Chennai - 600 108.

+1 cc to Mr.G.Sankaran Advocate sr 346
+1 cc to Government Pleader High Court Madras
sr 775

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