

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30.08.2017
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.31361 of 2004
And
W.P.M.P.No.38012 of 2004

T.Kuppusamy

... Petitioner

Vs.

1.The Deputy Director of Panchayats
Collectorate
Dharmapuri District.

2.The Block Development Officer,
Papireddipaati Taluk,
Dharmapuri District.

3.President
Sitheri Grade I Panchayat
Papireddipatti Taluk
Dharmapuri District.

... Respondents

Prayer:

Petition filed under Article 226 of The Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records from the file of the third respondent vide order dated 19.10.2004 and quash the same and further direct the third respondent to reinstate the petitioner in service with all attendant benefits.

For Petitioner : Mr.Su.Srinivasan

For Respondents : Mr.M.Elumalai
Government Advocate

O R D E R

The present writ petition has been filed by the petitioner challenging the termination order passed by the third respondent on 19.10.2004. The petitioner herein joined as Part Time Clerk from 21.07.1997 with the consolidated pay of Rs.550/- per month. Subsequently, petitioner was appointed as full time clerk with the monthly salary of Rs.1800/- with annual increment of

Rs.50/- in accordance with G.O.Ms.No.116 (Grade I Panchayat). Due to severe health problem, he applied leave from 04.10.2004 to 15.10.2004 and the said leave letter was personally handed over to the third respondent and a copy of the same has been given to the second respondent.

2. Though the petitioner was on leave, he had gone to the Bank for depositing the Panchayat amount and he also did all the Panchayat works. While so, the third respondent, for the reasons best known to him, has passed the resolution against the petitioner for his removal from the service. As a consequence of the resolution, the impugned order was passed by the third respondent removing the petitioner from service from 18.10.2004 and the said order was served to the petitioner on 19.10.2004.

3. Learned counsel for the petitioner would submit that without conducting any enquiry as contemplated under Sections 84 and 106 of the Panchayat Act and without following the principles of natural justice, immediately after resolution, the termination order was passed. Hence, he prayed to allow the writ petition for violation of the principles of natural justice.

4. Learned Government Advocate appearing for the respondents would submit that the petitioner was previously issued with a show cause-notice for his irregularity attitude and irresponsible action towards Panchayat function and several times, his irregularity was condoned by the respondent. Even then, he has not corrected himself till one such time on 15.01.2003, he was placed under suspension. Thereafter, based on his apology letter, his suspension was revoked. However, on 15.10.2004, without getting any prior permission from his superiors, the petitioner has not turned up to duty. As against his unauthorised absence for the said period, the Panchayat passed the resolution on 15.10.2004 to dismiss the petitioner from service. Accordingly, except no other option, the third respondent passed the removal order on 19.10.2004.

5. On perusal of the impugned order, it is crystal clear that no procedure was followed and the principles of natural justice has not even complied with by issuing the show cause notice. As per the G.O.Ms.No.175 dated 15.12.2006 imposed clear application on the Village President to conduct proper enquiry preceded by a notice seeking explanation before the proceedings to disciplinary action against the Part Time Clerk and under Section 106 also, he initiated action. But on perusal of the impugned order, it is seen that none of the procedures was followed before passing the removal order.

6. In view of all the above, I am inclined to interfere with the order passed by the third respondent dated 19.10.2004. Accordingly, the order of the third respondent is set aside.

However, it is made clear that this order will not stand in the way of the respondent to take disciplinary action against the petitioner after complying the procedures contemplated in G.O.Ms.No.175 dated 15.12.2006 and in compliance with the principles of natural justice.

In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gv

To

1.The Deputy Director of Panchayats
Collectorate
Dharmapuri District.

2.The Block Development Officer,
Papireddipaati Taluk,
Dharmapuri District.

3.President
Sitheri Grade I Panchayat
Papireddipatti Taluk
Dharmapuri District.

+1 cc to M/s.Su.Srinivasan Advocate sr62739

+1 cc to Government Pleader sr 63366

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sks(co)
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