

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.4.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.2511 of 2004

S.Devaraj

...Petitioner

Vs

1. The District Collector, Dharmapuri District, Dharmapuri.

2. The Block Development Officer, Shoolagiri, Dharmapuri District.

3. The Panchayat President Chinnarandoddi Panchayat, Shoolagiri Union, Dharmapuri District.

...Respondents

Petition under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the third respondent dated 14.1.2004, quash the same and direct the respondents to reinstate the petitioner in service with back-wages, continuity of service and all other consequential benefits.

For Petitioner : Mrs.AL.Gandhimathi

For Respondents 1 & 2 : Mr.Dhananjeyam, SGP

For Respondent-3 : Mr.V.Krishnan

ORDER

Challenging the order of termination, the above writ petition has been filed by the writ petitioner.

2. The facts in nutshell, as narrated in the affidavit filed in support of the above writ petition, are as follows :

The writ petitioner was appointed as Panchayat Clerk in Chinnarandoddi Panchayat, Soolagiri Union, Dharmapuri District and was working from the date of appointment. However, vide proceedings dated 05.11.2003, the third respondent issued a show cause notice calling upon the writ petitioner to submit his explanation for certain charges.

3. The charges framed against the petitioner were

(i) that the petitioner retained the records without furnishing proper explanation to the third respondent at the time of getting her signatures;

(ii) that certain documents containing the resolutions of the Panchayat were also missing in the office;

(iii) that the writ petitioner was a frequent late comer to the office;

(iv) that during the year 2003-04, the writ petitioner had unilaterally carried out the work of laying roads specifically at Chettiyar Street of Adi Dravidar Colony;

(v) that there were some irregularities in handling the panchayat accounts;

(vi) that the writ petitioner used abusive languages during the office hours;

(vii) certain corrections and alterations were made by the writ petitioner in the panchayat records without the permission of the third respondent.

Beyond these, some other allegations were mooted out against the writ petitioner.

4. On receipt of the show cause notice, the writ petitioner submitted his reply on 20.11.2003. On receipt of the explanation from the writ petitioner, the third respondent passed the order of termination vide proceedings dated 14.1.2004.

5. On perusal of the impugned order, it is seen that the third respondent simply received the explanation from the writ petitioner and stated that the explanation submitted by him cannot be accepted and ultimately rejected the explanation. After doing so, he proceeded with the nature of the allegations put forth against the writ petitioner and removed him from service.

6. The learned Special Government Pleader appearing for respondents 1 and 2 has also not disputed the fact that no enquiry was conducted and that the writ petitioner was dismissed from service summarily.

7. Punishment of removal is a major penalty, which requires compliance of the principles of natural justice. The parties to the lis admitted that no such domestic enquiry was conducted nor any report has been submitted enabling the third respondent to proceed with the order of removal from service. Therefore, the writ petition deserves to be considered on this short ground of non compliance of the principles of natural justice. No man shall be condemned without providing an opportunity and the writ petitioner was removed from service without complying with the mandatory requirement of the principles of natural justice.

8. On this short ground, the writ petition is allowed and the impugned order of removal is quashed. The respondents are at liberty to continue the disciplinary proceedings against the writ petitioner by following the procedure laid down for the purpose of conducting disciplinary proceedings against the employees of the panchayat. No costs.

Sd/-

Assistant Registrar (CS-III)

/ True Copy /

Sub Assistant Registrar

To

1. The District Collector,
Dharmapuri District,
Dharmapuri.

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2.The Block Development Officer,
Shoolagiri,
Dharmapuri District.

3.The Panchayat President,
Chinnarandoddi Panchayat,
Shoolagiri Union,
Dharmapuri District.

WP.No.2511 of 2004

KJI (CO)
RMP 18/05/2017



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