



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :15.12.2017

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.12146 of 2014
and

M.P(MD)Nos.1 & 2 of 2014

R.Senthilkumar

... Petitioner

Vs.

1.The District Collector and
Inspector of Panchayat,
Trichirapalli.

2.The Block Development Officer
(Village Panchayat)
Uppiliyapuram Panchayat Union,
Uppiliyapuram, Trichy District.

3.Naganallur Panchayat Board,
Represented by its
President, Naganallur Panchayat Board,
Naganallur, Trichy District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent proceedings Na.Ka.Tha 1/13267/ 2009, dated 10.04.2014 and quash the same as illegal and directing the respondents to reinstate the petitioner to the third respondent panchayat.

For Petitioner

: Mr.S.Muthukrishnan

For Respondents

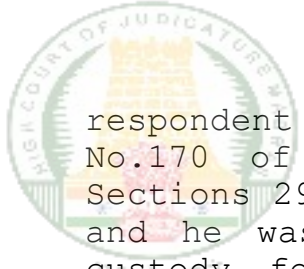
: Mr.V.Muruganantham

Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceedings of the first respondent in Na.Ka.Tha 1/13267/2009 dated 10.04.2014, wherein the first respondent has dismissed the petitioner from service, and seeking consequential direction to the respondents to permit the petitioner to join duty in the third respondent Panchayat.

2.The learned counsel appearing for the petitioner would submit that the petitioner was working as a Panchayat Clerk in the third



respondent panchayat. A criminal case was registered in crime No.170 of 2008 against the petitioner for the offences under Sections 294(b) and 506(i) I.P.C by the Uppiliyapuram Police Station and he was arrested on 11.09.2008 and remanded to the Judicial custody for six days. Further, the said Uppiliyapuram Police Station has registered another case against the petitioner in crime No.261 of 2009 for the offences under Sections 294(b) and 506(ii) I.P.C. Again, on 15.06.2011, the said Police Station has registered one another case against the petitioner in Crime No.221 of 2011 for the offences under Sections 448, 294(b), 427 and 506(ii) I.P.C.

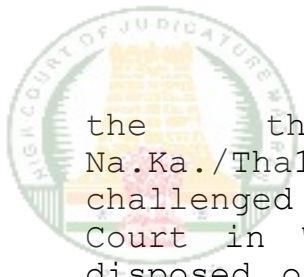
3.It is seen from the materials and records that the petitioner was acquitted in all the criminal cases by the learned Judicial Magistrate, Thuraiyur in Crime Nos.170 of 2008, 261 of 2009 and 221 of 2011. In the meantime, the petitioner was placed under suspension and the third respondent recommended in favour of the petitioner to permit him to join the duty. But the first respondent did not consider his representation. The petitioner has not been paid subsistence allowances during the period of suspension.

4.The offence is that the petitioner was drunken during office hours and quarreled without doing office work.

5.The contention of the learned counsel appearing for the petitioner is that the first respondent did not issue any charge memo or notice regarding the occurrence mentioned in the impugned notice issued by the PA to the first respondent, dated 07.03.2014. It is pertinent to note that the memo of the first respondent was also vague without mentioning the date of alleged occurrence. The first respondent has not chosen to send any memo for the alleged occurrence noted in the impugned order for the past 14 months and the impugned order is passed without giving any opportunity and the resolution was passed by the third respondent, dismissing the petitioner from service and also served on him, which is arbitrary and against the principles of natural justice.

6.The first respondent has passed a proceedings dated 18.01.2010 restraining the petitioner from functioning as the Clerk in the third respondent panchayat. Challenging the said order, the petitioner filed a writ petition in W.P(MD)No.12086 of 2011. This Court, by an order dated 01.10.2012, disposed of the said writ petition with a direction to pay subsistence allowances. After filing the contempt petition, the respondents have paid the subsistence allowance of Rs.77,145/- to the petitioner on 20.06.2014.

7.It is seen from the materials and records and also the counter affidavit, wherein it is stated that this petitioner has always come to the Office in a drunken mood and failed to do his duties. Hence, the criminal cases were registered against the petitioner by the police concerned. The first respondent issued an order restraining the petitioner from functioning as the clerk in



the third respondent panchayat in proceedings Na.Ka./Thal/12367/2009, dated 18.01.2010. The said order was challenged by the petitioner, by filing a writ petition before this Court in W.P(MD)No.12086/2011, and the said writ petition was disposed of with a direction to pay subsistence allowances. The first respondent had preferred an appeal, as against the said order, before this Court in W.A(MD)No.504 of 2014 and the same was dismissed.

8.Since the petitioner has been committed quarrel under intoxication mood during the office hours, normally, without doing official works, which caused hindrance to the village development works from 1977 onwards, the village Panchayat passed a resolution 4/2011-2012, dated 19.11.2011 to terminate the petitioner. The termination order was served to the petitioner by way of registered post. In order to terminate the petitioner from service, the third respondent passed the resolution No.51/2011-2012, in which, the first respondent was requested to initiate proceedings against the petitioner for termination on 19.03.2012. The first respondent, based on the resolution of the third respondent, has issued a show cause notice in Na.Ka.Thal/13267/2009, dated 07.03.2014, in which, the petitioner was directed to give written explanation within 15 days. Even though, the petitioner was put on notice, as he failed to present his explanation within 15 days as referred in the impugned order, a letter was served to the petitioner asking him to appear on 09.04.2014. Since there was no response on the side of the petitioner, the first respondent/ District Collector, has passed the order of termination, as per the Rule 14(e) of the Conduct Rules for Panchayat Secretaries. It is seen that the impugned notice was not sent to the petitioner and without giving any opportunity to the petitioner, the first respondent has passed the termination order and terminated the petitioner from service, which is illegal.

9.In view of the above, the impugned order is set aside and the first respondent/ District Collector is directed to conduct fresh enquiry after affording opportunity to the petitioner and the petitioner is also directed to appear for the enquiry and co-operate with the officials during the enquiry proceedings. The first respondent is directed to issue fresh notice and conduct a fresh enquiry and pass suitable orders in accordance with law, within a period of three months from the date of receipt of a copy of this order.

10.With the above said directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar (CS-II)

/True copy/



To

1.The District Collector and
Inspector of Panchayat,
Trichirapalli.

2.The Block Development Officer
(Village Panchayat) Uppiliyapuram Panchayat Union,
Uppiliyapuram,
Trichy District.

3.The President
Naganallur Panchayat Board,
Naganallur,
Trichy District.

+1CC TO M/S.S.MUTHU KRISHNAN, ADVOCATE, SR NO.93063

+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.93351

ORDER MADE IN
W.P (MD) No.12146 of 2014
and
M.P (MD) Nos.1 & 2 of 2014
15.12.2017
2/2

SSS

MS/SV-MMS/SAR-2/22.03.2018/4P.6C