



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
**DATED: 18.01.2017**

CORAM

**THE HON'BLE Mr. JUSTICE R. SURESH KUMAR**

**W.P. (MD) No.4595 of 2011**

**and**

**MP (MD) .No.1/2011**

WEB COPY

P.Edward Thangaraj

... Petitioner

-vs-

1.The District Collector,  
Tirunelveli District,Tirunelveli.

2.The Block Development Officer,  
Palayamkottai Panchayat Union,  
Palayamkottai,Tirunelveli District.

3.The President,  
Palayan Chettikulam Village Panchayat,  
Bargit Manager Post - 627 351,  
Tirunelveli District.

4 Mr.Samikan Devadoss,

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus to direct the respondents 1 to 3 to permit the petitioner to discharge his official duties as Panchayat Assistant in 3<sup>rd</sup> respondent Village Panchayat and to grant monthly salary to the petitioner based on the order dated 30.06.2009 passed by this Court in W.P.No.5488/2009.

For Petitioner

: Mr.M.Saravanakumar

For Respondents

: Mr.V.Muruganantham

Additional Government Pleader for R1

Mr. S.Chandrasekar

Mr. B.Vinothkumar for R2

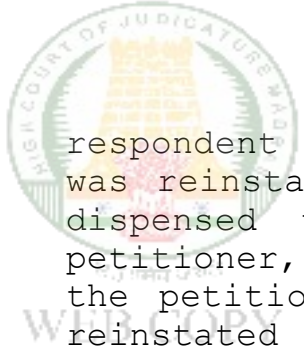
Mr.R.Lakshmanan for R4

No appearance for R3

### **O R D E R**

The prayer in the writ petition is for a Mandamus to direct the respondents 1 to 3 to permit the petitioner to discharge his official duties as Panchayat Assistant in the 3<sup>rd</sup> respondent Village Panchayat and to grant monthly salary to the petitioner based on the order dated 30.06.2009 passed by this Court in W.P.No.5488/2009.

2. The petitioner was appointed as Panchayat Clerk at the third respondent on 01.11.1996. Thereafter, he was dismissed from service on 17.06.2000. Against the dismissal, the petitioner had filed an appeal on 26.11.2001 to the first respondent. In the meanwhile, a new incumbent came in as President in the third



respondent Panchayat on 02.07.2007. On 02.07.2007, the petitioner was reinstated into service. Again on 04.1.2011, his service was dispensed with. (subsequently, on appeal being filed by the petitioner, he was again reinstated on 05.02.2015) Though initially the petitioner was appointed, removed from service, subsequently, reinstated and again removed from service. Against which, the petitioner has come up with the present writ petition.

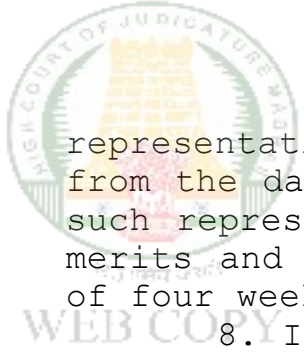
3. During the pendency of the writ petition, once again, the petitioner got reinstated on 05.02.2015, of course, not in the same station ie., at the third respondent Panchayat but in some other panchayat. Therefore, atleast from the second reinstatement from 05.02.2015, the petitioner has been continuously working till date. Therefore, there is no quarrel that the petitioner's service, though initially dispensed with twice, subsequently being restored and he is working. Therefore, the grievance as has been sought for in the present writ petition has accomplished or redressed. However, the learned counsel for the petitioner would contend that though the petitioner has been reinstated on 05.02.2015, the period for two spells ie., from 16.06.2000 to 01.07.2007 and 04.01.2011 to 05.02.2015, the petitioner was out of service and the said period has to be regularised as a duty period not for the purpose of backwages, atleast for continuity of service and for all retirement benefits. If that grievance of the petitioner is redressed by the respondents, the petitioner would be satisfied.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

5. Since in order to accommodate the 4<sup>th</sup> respondent, the petitioner's service was dispensed with, the 4<sup>th</sup> respondent has been arrayed as one of the party respondent. The petitioner, subsequently, had been removed from service and again got reinstated and in order to regularise his period of suspension or non duty period as duty period or to pay subsistence allowance, the petitioner has already approached this Court by filing a separate writ petition in W.P.No.17343/2013 and the same has been disposed of today by a separate order, therefore, insofar as the present issue raised in the present writ petition and the present grievance of the petitioner herein is not connected with the fourth respondent.

6. Insofar as the present grievance of the petitioner that his non duty period as referred to above has to be regularised for continuity of service is concerned, for such grievance, the petitioner has not filed any representation before the respondents. Moreover, the prayer sought for in the writ petition has already been accomplished. The present grievance of regularising the said two spell of non duty period cannot be directly dealt with by this Court in the present writ petition at this juncture.

7. Considering the said facts and circumstances, the petitioner is given liberty to approach the 1<sup>st</sup> respondent by making a fresh representation and on receipt of such representation, if any, from the petitioner, the same can be decided by the first respondent on merits and in accordance with law and a decision can be taken. Therefore, the petitioner, if at all advised to make a representation for the present grievance, he can make a



representation to the 1<sup>st</sup> respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of such representation, the first respondent shall decide the same on merits and in accordance with law and pass order within a period of four weeks thereafter.

8. In the result, this writ petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar (CS-I)

/TRUE COPY/

Sub Assistant Registrar

To

1. The District Collector/Inspector of Panchayat,  
Tirunelveli District,  
Tirunelveli.

2. The Block Development Officer,  
Village Panchayat,  
Palayamkottai,  
Tirunelveli District.

+1 cc to MR.R.Lakshmanan ADVOCATE, SR NO:2964

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO: 3064

rr

sva/pn/24.02.2017/3p/5c

**W.P. (MD) No.4595 of 2014**  
**18.01.2017**