



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2017

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P.(MD) No.17343 of 2013

S.Swamikan Devadoss,

... Petitioner

-vs-

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

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

3. The President,
Village Panchayat,
PalayamChettikulam
Parkitmanagaram,
Palayamkottai,
Tirunelveli District.

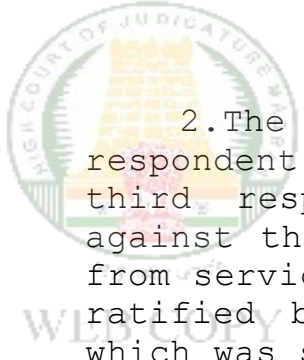
... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the respondents to pay the subsistence allowances and regularize the service during the period of suspension from 19.06.2007 to 03.01.2013 on the basis of representation made by the petitioner on 29.03.2013 within the stipulated time fixed by this Court.

For Petitioner : Mr.A.P.Muthupandian
For Respondents : Mr.V.Muruganantham for R1
Mr.K.MaheshRaja for R2 & R3

ORDER

The prayer in the writ petition is for a writ of mandamus to direct the respondents to pay the subsistence allowances and regularize the service during the period of suspension from 19.06.2007 to 03.01.2013 on the basis of representation made by the petitioner on 29.03.2013 within the stipulated time fixed by this Court.

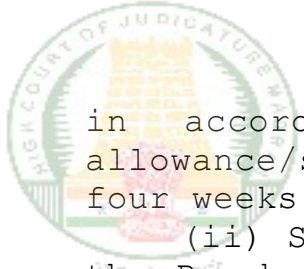


2.The petitioner was appointed as Assistant at the third respondent Village Panchayat on 25.11.2001. On 19.06.2007, the third respondent had initiated some disciplinary proceedings against the petitioner. Thereafter, the petitioner was suspended from service on 09.06.2007. The said suspension order having been ratified by the Village Panchayat Resolution dated 19.06.2007, which was served on the petitioner on 22.06.2007.

3.Aggrieved by the said order, the petitioner has filed an appeal before the 2nd respondent and in the meanwhile, he had also filed W.P.No.6127/2007 seeking direction to dispose of the appeal filed by the petitioner. Pursuant to the orders of this Court dated 28.06.2010, where the writ petition was disposed of as withdrawn by the petitioner, the 2nd respondent passed an order on 27.07.2010, wherein, the appeal of the petitioner was allowed and he was directed to be reinstated at the third respondent Panchayat. Pursuant to which, the petitioner joined duty on 04.01.2011. Thereafter, though the petitioner had given several representations to the respondents for payment of subsistence allowance, by regularising the services from the period from 19.06.2007 to 03.01.2013, nothing had yielded and finally, the petitioner had given further representation on 29.03.2013 to the third respondent to give subsistence allowance for the suspended period by regularising the same. A copy of the said representation was also submitted to the respondents 1 and 2. Since none of the respondents has taken any steps to decide the said grievance of the petitioner for subsistence allowance as well as regularising the period of suspension, the petitioner has approached this Court with the present writ petition.

4. Since the petitioner has been reinstated pursuant to the orders of the 2nd respondent, dated 27.07.2010 and even though in the said order, a direction was issued to the third respondent to initiate fresh disciplinary proceedings against the petitioner by giving definite charges and to conduct enquiry, nothing has come from the third respondent. Since for long years, no disciplinary proceedings has been initiated against the petitioner by the third respondent, as directed by the 2nd respondent, certainly, it shows that the third respondent is not ready and willing to take any disciplinary proceedings against the petitioner. If that being the position, the petitioner's claim to regularise his services and to pay subsistence allowance or salary for the suspension period can be considered by the respondents in accordance with law. Since for the said purpose, the petitioner has given representation to the third respondent and a copy of the same has also been marked to the respondents 1 and 2 on 29.03.2013 and since the same has not been disposed of by any of the respondents herein, this Court is inclined to give the following directions:

<https://hcservices.courts.gov.in/hcservices>
 The petitioner's representation dated 29.03.2013 addressed to the third respondent and a copy of which has been marked to the respondents 1 and 2 shall be decided and disposed of on merits and



in accordance with law regarding payment of subsistence allowance/salary to the said suspension period within a period of four weeks from the date of receipt of a copy of this order.

(ii) Since the third respondent being the elected President of the Panchayat and he has not shown any interest even to take any disciplinary action against the petitioner, in spite of the direction given by the 2nd respondent, vide his proceedings dated 27.07.2010, the present representation dated 29.03.2013 though addressed to the third respondent, shall be disposed of only by the 2nd respondent, as directed above, and the result of such disposal of the representation shall be communicated to the petitioner forthwith.

With the above directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CO)

/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 Special Government Pleader, SR.No. 3066

W.P. (MD) No.17343 of 2013
18.01.2017

RR

MKV-SKN-RSK/11.4.2017/3P-4C