

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2018

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.30051 of 2011

and

M.P. NO.1 of 2011

D. Velmurugan

...Petitioner

-Vs-

1.The District Collector,
Cuddalore District,
Cuddalore.

2.The Block Development Officer,
Village Panchayats,
Annagrammam Union,
Panruti Taluk, Cuddalore District.

3.The President,
Agaram Panchayat,
Panruti Taluk,
Cuddalore District.

4. Krishnan

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of declaration declaring that the oral order of the 3rd respondent refusing the petitioner to work as Panchayat Assistant at Agaram Panchayat, Annagrammam Panchayat Union, Panruti Taluk, Cuddalore District, is illegal and nonest in the eye of law and thereby direct the 3rd respondent to permit the petitioner to work as full time Panchayat Assistant at Agaram Panchayat, Annagrammam Panchayat Union, Panruti Taulk, Cuddalore District and also direct the respondents 1 to 3 to provide the petitioner all monitory and other benefits from 01.12.2006.

For Petitioner : Mr.N. Suresh

For Respondent 1 : A. Zakir Husain
(Government Advocate)

For Respondents 2&3 : No Appearance

For Respondent 4 : Mr. S. Ayyathurai

O R D E R

The writ petition has been filed to issue a Writ of declaration declaring that the oral order of the 3rd respondent refusing the petitioner to work as Panchayat Assistant at Agaram Panchayat, Annagrammam Panchayat Union, Panruti Taluk, Cuddalore District, is illegal and non-est in the eye of law and thereby direct the 3rd respondent to permit the petitioner to work as full time Panchayat Assistant at Agaram Panchayat, Annagrammam Panchayat Union, Panruti Taulk, Cuddalore District and also direct the respondents 1 to 3 to provide the petitioner all monitory and other benefits from 01.12.2006.

2. The learned counsel appearing for the petitioner would submit that the petitioner was appointed as part time panchayat assitant at Agaram Panchayat, Annagramman Panchayat Union by a valid resolution on 01.04.1997 and his appointment was ratified by the resolution dated 15.08.1997. The petitioner, working as Panchayat Assistant, was paid a sum of Rs.350/-(Rupees Three Hundred and Fifty Only) per month as salary. The petitioner was working regularly and receiving salary every month from the Panchayat. The petitioner was informed orally by the third respondent without any enquiry and any termination order in writing that he need not attend the Panchayat office from 21.11.2006. In view of the oral termination, the petitioner has made representations to the respondents 1 to 3 who are authorities concerned. As there is no response from the respondents, the petitioner has filed the present writ petition seeking to direct the third respondent to permit the petitioner to work as full time Panchayat Assistant and to provide all monitory and other benefits to the petitioner.

3.The learned government pleader appearing for the first respondent would submit that the petitioner had been absentee since 27.11.2006 and he did not attend duty from the aforesaid date. While so, after lapse of five years, the petitioner has made representations to the respondents and filed the writ petition in the year 2011 seeking the above said relief is illegal and is not maintainable in law.

4. The second and third respondents have filed the detailed counter affidavits before this Court stating that the petitioner has misappropriated the panchayat fund of Rs.37,500/-(Rupees Thirty Seven thousand and Five Hundred Only) on 21.09.2006 drawn towards the wages to labourers engaged in the National Rural Employment Guarantee Scheme and the amount was subsequently recovered from the petitioner on 11.12.2006 after finding his embezzlement. Hence, the Panchayat has not satisfied

the performance in the legitimate duties of the petitioner. Therefore, the petitioner has removed from the service.

5. It is seen from the records that after lapse of five years, the petitioner has approached the respondents and filed the present writ petition in the year 2011. Further, the petitioner has made representation to Chief Minister Cell, Tamil Nadu, in this regard. Therefore, this Court cannot grant relief to the petitioner for unauthorized absence of him. In view of the unauthorized absence of the petitioner, the third respondent has also appointed the fourth respondent in place of the petitioner.

6. In the result, the writ petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

Copy to:

1. The District Collector,
Cuddalore District,
Cuddalore.
2. The Block Development Officer,
Village Panchayats,
Annagrammam Union,
Panruti Taluk, Cuddalore District.

+1cc to Mr.N.Suresh, Advocate sr.85576
+1cc to Mr.S.Ayyathurai, Advocate Sr.84836

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srg 20/02/2019