

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.18285 of 2009

M. Sridhar

..Petitioner

Vs

1.The District Collector,
Thiruvannamalai,
Thiruvannamalai District.

2. The Block Development Officer,
Block Development Office,
Thandrampattu Union
Thandrampattu Taluk
Thiruvannamalai District.

3. The President
Keelsirupakkam Village Panchayat
Keelsirupakkam Post
Thandrampattu Taluk
Thiruvannamalai District.

..Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 2 and 3 to permit the petitioner to join the duty as people welfare Assistant in 3rd respondent panchayat and to pay the salary for the period from November 2008 to till date.

For Petitioner : Mr.G. Rajan

For Respondents: Mr.R.S.Selvam, Government Advocate for R1.

Mr.R.Thirugnanam, for R2.

R3 - No appearance

O R D E R

This writ petition has been filed to direct the respondents 2 and 3 to permit the petitioner to join the duty as people welfare Assistant in 3rd respondent panchayat and to pay the salary for the period from November 2008 to till date.

2. The Petitioner was appointed as People welfare Assistant by the 1st respondent in his proceedings in Na.Ka.No.A3/2036/90 dated 02.01.1990 in the Keelsirupakkam village. The said post of People Welfare Assistant was abolished and was also changed. After the change in the Government policy, again it was reintroduced and the petitioner was re-appointed in the year 2006, from 14.12.2006 in proceedings No.Na.Ka.6550/2006/PA2 by the 1st respondent. The functions and duties for the said persons are to maintain records for Parks, Forests, Ponds, to extend the village library, to act as agents for small savings and to maintain street lights in co-ordination with Electricity Department and to enlighten the public about the evils of drinking, and to encourage vaccination, family welfare and to collect taxes levied by village panchayat.

3.The petitioner would further contend that he has been performing his duties without any blemish and is always diligent in discharging his duties and responsibilities. While so, since the petitioner was suffering from Chronic Pancreatic disease, he was not able to attend the duties as People Welfare Assistant from 10.07.2008 to 04.11.2008, and he has also informed the same to the 3rd respondent. But in spite of that when he went to the 3rd respondent office in the second week of November 2008 after recovering from the illness, the 3rd respondent has prevented him from taking in-charge and told him that a show cause notice in due course will be served on him and only after his explanation, he may be permitted to take the charge again.

4.The learned counsel for the petitioner would also contend that the show cause notice was issued on 15.12.2008 by the second respondent in his proceedings in Na.Ka.PO3/3114/2008 calling the petitioner to provide explanation for his unauthorized absence from 10.07.2008 within a period of 7 days and the petitioner has also offered his explanation on 20.12.2008 stating that only due to his ailment of Chronic Pancreatic disease, he could not attend to his employment. Even thereafter, no action was taken on his explanation, but the 3rd respondent has not permitted the petitioner to join duty. In spite of sending explanation and several reminders, including the last reminder on 08.08.2009, there is no communication from the respondents. Whereas the petitioner is continuing in the service since his service was either terminated or he was placed under any suspension. The petitioner would contend that the respondents 2 and 3 have no power to prevent him from joining duty indefinitely and to withhold the salary for that period. Hence, the petitioner has filed this writ petition.

5.The learned Government Advocate would submit that the petitioner's job is not a permanent job and it is only a temporary post and he has been paid consolidated payment and the

same has been paid from the funds of the local body and hence he cannot have any right to claim appointment/permission to join duty. The learned Government Advocate also would contend that the duties assigned to the petitioner cannot be done by any other person other than the petitioner and the petitioner's unauthorized absence has made the 3rd respondent to suffer a lot. Since the petitioner was unauthorizedly absent for more than three months, the respondents had no other option except than to remove the petitioner from service and also the scheme itself has been abolished by the present Government and no such persons are employed under the said scheme.

7. In view of the above submissions of the learned Government Advocate, nothing survives for further adjudication in this writ petition. Hence, writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

AT

To

1. The District Collector
Thiruvannamalai
Thiruvannamalai District.
2. The Block Development Officer,
Block Development Officer,
Thandrampattu Union
Thandrampattu Taluk
Thiruvannamalai District.

+1 cc to Mr.R.Thirugnanam, Advocate, S.R.No.53088

+1 cc to Mr.G.Rajan, Advocate, S.R.No.52714

+1 cc to the Government Pleader, S.R.No.53222

W.P.No.18285 of 2009

AK(CO)
SSM(13/02/2019) .