



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 1206 of 2018

R.Periyasamy

... Petitioner

Vs.

1. The District Collector cum
Inspector of Panchayats,
Virudhunagar District,
Virudhunagar.
2. The Assistant Director of Rural
Development (Panchayats),
Virudhunagar District.
3. The Block Development
Officer (Village Panchayat)
Kariyapatti Panchayat Union,
Virudhunagar District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for records passed by the third respondent herein in Letter Note Na.Ka.P.1/759/2016, dated 25.07.2017 and quash the same and consequently direct the respondents herein to regularise the period from 01.04.2010 to 09.02.2012 and from 15.05.2013 to 30.09.2013 as duty period and to pay the arrears of salary due to the petitioner.

For petitioner	: Ms.M.Padmavathy
For R-1 & R-2	: Mr.M.Jeyakumar
	Additional Government Pleader
For R-3	: Mr.V.Anand

O R D E R

Heard the learned counsel on either side.

2. By consent of both parties, the main writ petition is taken up for final disposal at the stage of admission itself.



3. The petitioner was appointed as Panchayat Assistant in the year 2002 in D.Kadamangulam Panchayat. Suddenly, he was prevented from discharging his duties. The petitioner therefore filed W.P. (MD).No.13800 of 2010 before this Court. This Court by order dated 11.04.2011, allowed the writ petition. There have been subsequent rounds of writ petitions also. In fact, Contempt Petition No. 1140 of 2014 was also filed. The petitioner, pursuant to the orders of this Court was allowed to join duty and resumed his work as Panchayat Assistant. However, the period from 01.04.2010 to 09.02.2012 and period from 15.05.2013 to 30.09.2013 was not regularised. The petitioner states that said period must be treated as duty period and that he must be paid arrears of salary.

4. At this stage the Government Pleader appearing for the respondents submitted that the petitioner had been paid the salary for the period 15.05.2013 to 30.09.2013 but, the said period is yet to be formally regularised as one on duty.

5. It is beyond dispute that the petitioner herein was very much willing to report for duty and work. It was on account of the obstructionist attitude adopted by the Panchayat Management that the petitioner was not in a position to discharge his duties. Therefore, the principle of "no work no pay" cannot be applied. At the same time, the petitioner fairly states that he is more concerned about treating the said period as duty period and regarding back wages the same can be fixed by this Court.

6. In these circumstances in the interest of justice, this Court directs the respondents to pay a sum of Rs.50,000/- towards back wages for the period 01.04.2010 to 09.02.2012. This lumpsum payment shall be paid within a period of eight weeks from the date of receipt of a copy of this order and on such payment, the petitioner herein shall not have any further claim on the remaining part of the back wages. However the period from 01.04.2010 to 09.02.2012 and again from 15.05.2013 to 30.09.2013 will have to be treated as duty period for all other purposes.

7. With these directions the writ petition is allowed as indicated above. No costs.

Sd /-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar



To:

1. The District Collector cum
Inspector of Panchayats,
Virudhunagar District,
Virudhunagar.

2. The Assistant Director of Rural
Development (Panchayats),
Virudhunagar District.

+ 1 CC TO M/s.M.PADMAVATHY, ADVOCATE IN SR No. 48025

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 48633

KMI

TE/SV-MMS/SAR-1 : 03/05/2018 : 3P/5C

ORDER MADE IN
W.P. (MD) No.1206 of 2018
12.02.2018