



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1493 of 2018

Thangathai

... Petitioner

Vs.

1.The District Collector cum
Inspector of Panchayat,
Thoothukudi District,
Thoothukudi.

2.The Block Development Officer,
(Village Panchayat),
Kayathar Panchayat Union,
Kayathar, Thoothukudi District.

3.The President/The Special Officer,
Theethampatti Village Panchayat,
Thoothukudi District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the second respondent herein made in his proceedings No.Thi3/2931/2017 dated 23.12.2017 and quash the same as unconstitutional and arbitrary and consequently direct the respondents herein to pay the arrears of salary to the petitioner to the tune of Rs.5,11,525/- for the period from January 2008 till December 2015 within the time stipulated by this Court.

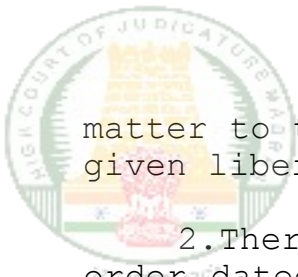
For Petitioner : Mr.G.Thalamutharasu
For Respondents : Mr.M.Jeyakumar
Addl.Govt.Pleader for R1

M.Sethuraman for R2

No appearance for R3

ORDER

The petitioner was appointed as a Panchayat Clerk in the third respondent Panchayat in the year 2004. The petitioner was terminated from service on 02.12.2006. This was questioned by the petitioner by filing WP(MD)No.1834 of 2007. This Court by order dated 15.11.2007 set aside the said dismissal order and remitted the



matter to the file of the disciplinary authority. The Panchayat was given liberty to proceed further in accordance with law.

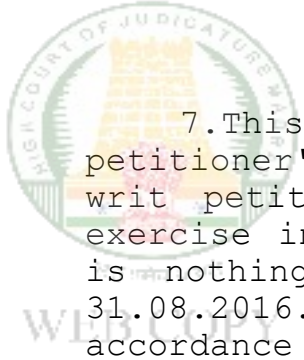
2. Thereafter, again the petitioner was removed from service by order dated 01.09.2008. This was questioned by the writ petitioner by filing an appeal before the second respondent. The second respondent herein by order dated 14.10.2008 partly allowed the appeal by holding that for charges proved, the penalty of removal of service was grossly disproportionate. The petitioner herein was directed to be reinstated in service.

3. It is the case of the petitioner that he was not allowed to rejoin duty. Therefore, she gave a representation in this regard. Since the said representation was not considered, she filed WP(MD) No.8969 of 2016 before this Court. This Court by order dated 29.04.2016 directed the second respondent to consider the petitioner's representation. The said direction to consider the petitioner's representation was misconstrued by the second respondent as if there was a positive direction by this Court to disburse a sum of Rs.5,11,525/- to the petitioner herein. Acting under such a factual misconception, the second respondent issued proceedings dated 31.08.2016 in favour of the petitioner herein. When the said proceedings was received by the third respondent, he submitted a detailed reply. It was pointed out that though the petitioner was ordered to be reinstated, she did not join for duty. Therefore, the principle of "no work no pay" was applicable to the case of the petitioner.

4. The learned Additional Government Pleader appearing for the first respondent would submit that the petitioner can even now rejoin duty in the third respondent Panchayat. But it was she who deliberately not reporting for duty.

5. The said explanation given by the third respondent was considered by the second respondent and a further order dated 23.12.2017 came to be passed by the second respondent. The second respondent called upon the petitioner to re-submit the relevant service records and that the matter would be considered further. It is this order dated 23.12.2017 that is assailed in this writ petition. The submission made by the learned Additional Government Pleader for the first respondent that they are ready to take back the petitioner into service is recorded.

6. The learned counsel appearing for the petitioner submits that the petitioner would report for duty on 12.03.2018. As and when the petitioner reports for duty, she shall be taken back in service. As regards the payment of Rs.5,11,525/- for the period from 01.01.2008 to 31.12.2015, it is stated that the petitioner has not placed any service record of proof to sustain her claim. But, the second respondent was under misconception that there was a positive direction in favour of the petitioner for disbursement of the said sum.



7.This Court had merely directed consideration of the petitioner's representation. Now, by the order impugned in this writ petition, the second respondent has undertaken to do that exercise in compliance with the Court direction. Therefore, there is nothing to be interfered with in the impugned order dated 31.08.2016. The second respondent shall pass orders afresh in accordance with law as regards the payment of Rs.5,11,525/- as claimed by the petitioner, after hearing the stake holders and after taking into account the relevant records, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the matter.

8.This writ petition is partly allowed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The District Collector cum
Inspector of Panchayat,
Thoothukudi District,
Thoothukudi.

+1CC to Mr.G.Thalaimutharasu, Advocate, SR.No. 53901

W.P(MD)No.1493 of 2018
07.03.2018

skm

AM/SKN RSK/SAR 2/12.03.2018/3P/3C