

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.10.2019
DELIVERED ON : 30.10.2019

CORAM :

The HON'BLE MR.JUSTICE M.DURAISWAMY
W.P.No.6096 of 2004

R.Sathyannarayana Sarma

.. Petitioner

Vs.

1.The District Collector,
Coimbatore.

2.The Assistant Director,
Panchayat Union,
O/o. District Collector,
Coimbatore.

3.The Block Development Officer,
Panchayat Union, Tiruppur.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of certiorarified mandamus calling for the records relating to the 1st respondent's proceedings made in Na.Ka.No.6870/2002/A3 dated 04.06.2003 and quash the same and consequently, direct the respondents to reinstate the petitioner with all monetary and service benefits.

For Petitioner : Mr.M.Muthappan

For Respondents: Mr.S.N.Parthasarathi,
Government Advocate (R1 & R2)

Mr.R.Lakshmi Narayanan (R3)

O R D E R

The petitioner has filed the above Writ Petition to issue a Writ of certiorarified mandamus to call for the records relating to the 1st respondent's proceedings dated 04.06.2003 and to quash the same and consequently, direct the respondents to reinstate the petitioner with all monetary and service benefits.

2.It is the case of the petitioner that he was appointed as a Part-time Panchayat Union Clerk of Muthanampalayam Panchayat Union, Tiruppur on 03.01.1997 for a consolidated pay of Rs.550/-. Thereafter, the consolidated pay was increased to

Rs.930/-. Subsequently, on the recommendation of the Block Development Officer, the 3rd respondent, the District Collector, the 1st respondent suspended the petitioner on 28.10.2002 based on six charges. Thereafter, the petitioner gave representations to the 2nd respondent on 30.12.2002 to re-instate him in service. The 1st respondent appointed an Enquiry Officer to enquire into the charges made against the petitioner. The petitioner submitted his representation on 18.02.2003 to the Enquiry Officer. By order dated 25.03.2003, the 1st respondent re-instated the petitioner in service. The petitioner appeared before the Enquiry Officer for enquiry. The petitioner also submitted his explanation to the 1st respondent on 02.06.2003. The 1st respondent, by his proceedings dated 04.06.2003, dismissed the petitioner from service. Challenging the same, the petitioner has filed the above Writ Petition.

3.Mr.M.Muthappan, learned counsel appearing for the petitioner submitted that the District Collector has no jurisdiction to pass the impugned order and that the entire disciplinary action proceeded without any specific charge memo issued to the petitioner. Further, the learned counsel submitted that the petitioner was not furnished with the enquiry report.

4.According to the respondents, the post held by the petitioner was not in any State Government service which comes within the meaning of the Article 309 of the Constitution of India.

5.With regard to the jurisdiction of the 1st respondent in passing the impugned order, the respondents contended that no specific ground has been taken by the petitioner in the Writ Petition. Further, the respondents have stated that complaints were received against the petitioner, therefore, the Extension Officer, the Block Development Officer and the Deputy Block Development Officer were directed to inspect Muthanampalayam Panchayat. When the 3rd respondent inspected the Office of the Panchayat on 19.09.2002, he found some irregularities committed by the petitioner while discharging his official duties. The irregularities found during the inspection were grave in nature and the petitioner had deliberately absented from the Office without any permission from his superiors. In view of the said charges, the petitioner was suspended from the service.

6.The Enquiry Officer submitted his report dated 12.03.2003 holding that all the charges were proved. By order dated 25.03.2003, the 1st respondent revoked the order of suspension. The enquiry report submitted by the Enquiry Officer was considered by the 1st respondent along with all the materials. Taking into consideration all the materials and the seriousness of the charges framed against the petitioner, the 1st respondent

passed the impugned proceedings dated 04.06.2003, imposing the penalty of removal from service.

7.It is pertinent to note that the 1st respondent in his proceedings dated 28.10.2002 mentioned the six allegations in the form of charges and also issued orders suspending the petitioner and calling for explanation from him. In response to the said memo, the petitioner/delinquent submitted his explanation dated 30.12.2002 to the charges specified in the memo through the Block Development Officer. Apart from this, the petitioner also submitted his written statement dated 18.02.2003 to the Enquiry Officer. From the above, it is clear that the petitioner was served with the memo and he has also given explanation to the same. Even at the time of suspending the petitioner, the departmental enquiry proceedings was initiated, wherein also the petitioner submitted his explanation praying for revocation of the suspension. The petitioner's explanation was considered by the respondent and he was re-instated. On receipt of the enquiry report, the 1st respondent called the petitioner for a personal hearing and when he appeared before the 1st respondent and placed his explanation, the contention of the petitioner that he was not given an opportunity of hearing cannot be accepted. The 1st respondent had considered the case of the petitioner independently and taking into account the gravity of charges, imposed the penalty of removal from service.

8.As rightly contended by the learned counsel for the respondents, with regard to the jurisdiction of the 1st respondent in passing the impugned order, it is clear that the petitioner has not raised the said issue as a ground in the Writ Petition. In fact, the petitioner has not stated anything about the jurisdiction of the 1st respondent in passing the impugned order. The petitioner has issued the cheques without following the prescribed procedures of the State Government. The respondents have also contended that the petitioner was employed as a Part-time Clerk in the Panchayat on a consolidated pay and that he does not come under any service of the Government. The 1st respondent has passed the impugned order removing the petitioner from service, taking into consideration the gravity of charges framed against the petitioner. I do not find any error in the order passed by the 1st respondent. The Writ Petition is liable to be dismissed. Accordingly, the same is dismissed. No costs.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

To

1.The District Collector,
Coimbatore.

2.The Assistant Director,
Panchayat Union,
O/o. District Collector,
Coimbatore.

3.The Block Development Officer,
Panchayat Union, Tiruppur.

+1 CC to Mr.M.Muthappan, Advocate sr 89758.

W.P.No.6096 of 2004

PA(CO)
SP(27/11/2019)



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