

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.Nos.24230 of 2010 & 8262 of 2011
and M.P.No.2 of 2011

R.Siva

.. Petitioner in
both W.Ps.

Vs.

- 1.The District Collector,
Villupuram District,
Villupuram.
- 2.The Assistant Director of Village Panchayat,
Villupuram District,
Villupuram.
- 3.The Block Development Officer,
Gingee Panchayat Union,
Gingee Taluk,
Villupuram District.
- 4.The President,
Devanampettai Village Panchayat,
Devanampettai Village,
Gingee Taluk,
Villupuram District.

5.Manikandan

.. Respondents
in W.P.No.24230 of 2010

- 1.The Presiding Officer,
Labour Court, Cuddalore.
- 2.The Village Panchayat Administration,
Rep. By its President,
Devanampettai Village Panchayat,
Gingee Taluk,
Villupuram District.

3.Manikandan

.. Respondents in
W.P.No.8262 of 2011

Prayer in W.P.No.24230 of 2010: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus calling for the entire records pertaining to the removal order of the petitioner and relating to the proceedings of the 4th respondent in letter No.1/2010 dated 18.10.2010, quash the same and consequently, direct the respondents to reinstate the petitioner with continuity of service, attendant benefits and backwages.

Prayer in W.P.No.8262 of 2011: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus calling for the entire records relating to the proceedings made in I.D.No.59 of 2010 dated 06.09.2010 passed by the 1st respondent and quash the same and consequently, direct the respondent to reinstate the petitioner in service with continuity of service and attendant benefits.

(In W.P.No.24230 of 2010)

For Petitioner : Mr.R.Dhanaram
for M/s.G.Ethirajulu
For RR1 to 4 : Mr.R.S.Selvam,
Government Advocate
For R5 : Mr.N.Suresh

(In W.P.No.8262 of 2011)

For Petitioner : Mr.R.Dhanaram
for M/s.G.Ethirajulu
For R2 : Mr.R.S.Selvam,
Government Advocate
For R3 : Mr.N.Suresh

C O M M O N O R D E R

W.P.No.24230 of 2010 is filed challenging the proceedings of the 4th respondent in letter No.1/2010 dated 18.10.2010 and W.P.No.8262 of 2011 is filed challenging the proceedings in I.D.No.59 of 2010 dated 06.09.2010 passed by the 1st respondent and both the petitions are filed consequently to direct the respondents to reinstate the petitioner with continuity of service, attendant benefits and backwages.

2.The issues and parties involved in both the Writ Petitions are interlinked and therefore, they are disposed of by this common order. The parties are referred to as per their rank in W.P.No.24230 of 2010.

3.According to the petitioner, he was appointed as part-time clerk in 4th respondent Panchayat on 08.10.2003. Subsequently, as per G.O.No.175LA(C5), Department, dated 05.12.2006, the petitioner was regularized and he was brought on time scale of pay. While so, the petitioner was dismissed from service by impugned Letter No.1/2010 dated 18.10.2010. According to the learned counsel appearing for the petitioner, the 4th respondent Panchayat dismissed the petitioner without issuing notice, charge memo and without conducting any enquiry and therefore, the impugned order is invalid, illegal and liable to be set aside. The petitioner's service was regularized as Village Panchayat Assistant and his name is in the serial number for the next promotion as Junior Assistant. The petitioner has become Government Servant on being regularized. The learned counsel appearing for the petitioner contended that earlier the 5th respondent was appointed as part-time clerk on 27.12.1999 and he was dismissed from service in August 2003. The 5th respondent left to Singapore on August 2002, he worked there for two years and he came back to India only in the year 2009 and filed I.D.No.59 of 2010 before the Labour Court, Cuddalore. The 4th respondent did not contest the said I.D. properly and 5th respondent was ordered to be reinstated and held not entitled to the backwages. The 4th respondent suppressed the facts that took place between the year 2003 and 2010 that 5th respondent was working in Singapore, the petitioner was appointed on 08.10.2003, his service was regularized and he is working as a permanent Assistant in 4th respondent Panchayat. Hence, the petitioner filed W.P.No.8262 of 2011, challenging the award of the Labour Court.

4.Mr.R.S.Selvam, learned Government Advocate appearing for the respondents 1 to 4 contended that originally, the 5th

respondent was appointed as part-time clerk in 4th respondent Panchayat and he was dismissed from service. The 5th respondent raised I.D.No.59 of 2010 before the Labour Court, Cuddalore. The Labour Court in the said I.D ordered reinstatement of 5th respondent without any backwages. In compliance of the award of the Labour Court, the 4th respondent reinstated the 5th respondent into service and dismissed the petitioner as there is only one post on Village Assistant. Even today, the 5th respondent is working as Village Assistant and hence, prayed for dismissal of both the Writ Petitions.

5.The learned counsel appearing for the 5th respondent contended that the 5th respondent was dismissed from service without any notice, charge memo or enquiry. The 5th respondent raised Industrial Dispute before the Labour Court, Cuddalore in I.D.No.59 of 2010. The Labour Court considering the materials on record, ordered reinstatement of 5th respondent. The 4th respondent has not challenged the said award. The petitioner has no locus standi to challenge the said award. As per the award of the Labour Court, the 5th respondent is entitled to be reinstated as Village Assistant and the 4th respondent has complied the award of the Labour Court and 5th respondent is working from 21.10.2010 as per the award of the Labour Court and continuing today and prayed for dismissal of the Writ Petitions.

6.Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the respondents 1 to 4 as well as the learned counsel appearing for the 5th respondent and perused the materials available on record.

7.From the materials on record, it is seen that only after dismissal of the 5th respondent, the petitioner was appointed as part-time clerk. Subsequently, he was appointed as Village Assistant on time scale of pay. The 5th respondent challenged his dismissal order in the year 2010. Even though the 5th respondent has raised the Industrial Dispute belatedly, the Labour Court considering the materials on record, has ordered reinstatement of 5th respondent. The 4th respondent who is the President of present Village Panchayat who was party to the Industrial Dispute, did not challenge the award and the said award has become final. The petitioner was not party to the said I.D as he has no locus standi to challenge the said award. Further, the contention of the learned counsel for the petitioner that President of the 4th respondent did not sign the dismissal order and that Vice President of Panchayat has written a letter to the 3rd respondent stating that sign of the President of the Panchayat was put by one of the members, do not support the case of the petitioner. The President of the 4th respondent Panchayat

has not disputed the signature in the impugned order of dismissal. There is nothing on record to show that any enquiry was conducted based on the alleged letter written by the Vice President of Panchayat to the 3rd respondent. This Court dismissed the petition for stay of impugned order filed in W.P.No.24320 of 2010 by the petitioner on the ground that the petitioner is not in service. The 5th respondent was reinstated into service in the year 2010 and the petitioner is not in service from that day. The 5th respondent was reinstated as per the award of the Labour Court and therefore, the contention of the learned counsel for the petitioner that petitioner was dismissed illegally without any notice and without enquiry, is not acceptable.

8. For the above reasons, both the Writ Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

gsa

To

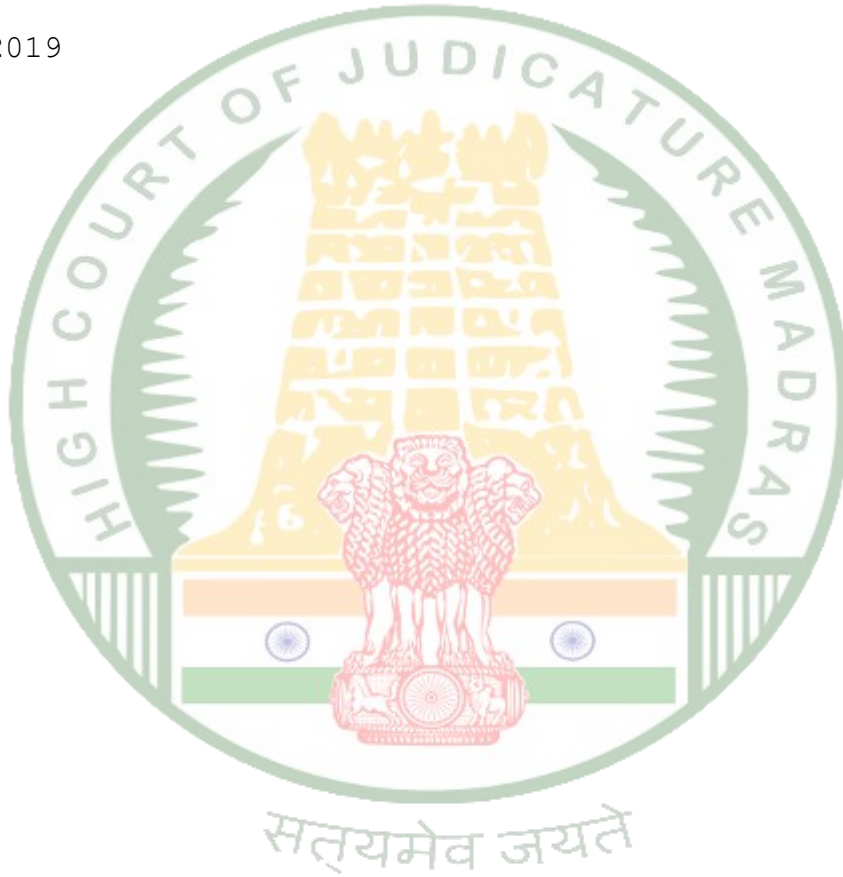
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Devanampettai Village,
Gingee Taluk,
Villupuram District.

5.The Presiding Officer,
Labour Court, Cuddalore.

+1cc to Mr.N.Suresh, Advocate sr.73200
+1cc to Mr.G.Ethirajalu, Advocate sr.73586
+1cc to Mr.R.S.Selvam, Advocate sr.73873
+1cc to Government Pleader SR.NO. 74117

W.P.Nos.24230 of 2010 & 8262 of 2011

mr(co)
nr 11/11/2019



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