

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.6134 of 2011

and

M.P.No.2 of 2011

J.Anandaraaj

.. Petitioner

Vs.

1.The District Collector &
Inspector of Panchayats,
Dharmapuri District,
Dharmapuri.

2.The President,
Thanduharanahalli Village Panchayat,
Palacode Taluk,
Dharmapuri District.

3.The Block Development Officer,
(Village Panchayats),
Palacode,
Dharmapuri District.

4.The Assistant Director of Rural Development,
Dharmapuri.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, calling for the records of the 2nd respondent relating to resolution No.1 dated 25.11.2009 and the consequential order 29.10.2010, removing the petitioner from service, to quash the same and to issue consequential direction to the 2nd respondent to reinstate the petitioner in service with consequential benefits.

For Petitioner : Mr.D.Baskar
For RR1, 2 & 4 : Mr.R.S.Selvam
Government Advocate
For R3 : Mr.A.Arumugam

O R D E R

Writ Petition filed for issuance of writ of Certiorarified Mandamus, calling for the records of the 2nd respondent relating to resolution No.1 dated 25.11.2009 and the consequential order 29.10.2010, removing the petitioner from service, to quash the same and to issue consequential direction to the 2nd respondent to reinstate the petitioner in service with consequential benefits.

2. According to the petitioner, he was appointed as Panchayat Assistant in second respondent Village Panchayat in the year 1991 by the first respondent. He was placed under suspension by order dated 27.09.2006, passed by the third respondent. The petitioner filed W.P.No.19618 of 2007 and this Court granted interim stay of suspension on 27.09.2007. The petitioner was reinstated into service and no further action was taken based on the suspension order. Subsequently, in the year 2008, the services were regularized and he became regular Panchayat Assistant in the year 2008. Again the first respondent by the order dated 26.03.2009, placed the petitioner under suspension by leveling serious allegations against the petitioner. The second respondent lodged criminal complaint against the petitioner in Crime No.6 of 2009 on the file of District Crime Branch, Dharmapuri on 07.04.2009. The petitioner filed W.P.No.12276 of 2010 challenging the order of suspension dated 26.03.2009. On 13.08.2010, when the Writ Petition came up for hearing, the learned counsel appearing for the second respondent submitted before this Court that the petitioner was removed from service by resolution No.8 dated 05.06.2009. In view of the said resolution, this Court held that Writ Petition challenging order of suspension cannot be entertained and it is open to the petitioner to challenge the resolution removing the petitioner from service. This Court directed the second respondent to furnish a copy of the order of removal and the resolution of the Panchayat within a period of two weeks. The petitioner filed present Writ Petition challenging the resolution No.1 dated 25.11.2009 and order of removal dated 29.10.2010.

3. The learned counsel appearing for the petitioner contended that at the time of hearing the W.P.No.12276 of 2010, the learned counsel appearing for the second respondent submitted that by the resolution dated 05.06.2009, the petitioner was removed from service, but furnished copy of the resolution dated 25.11.2009 and order of removal dated 29.10.2010. In the said order of removal, the date of resolution is mentioned as 05.06.2009. The learned counsel appearing for the petitioner contended that petitioner was removed without any charges being framed against the petitioner, without conducting any domestic

enquiry and without giving any opportunity to the petitioner to put forth his case on merits. The second respondent by a resolution has removed the petitioner from service without following the principles of natural justice, without serious allegations being leveled against the petitioner and prayed for allowing the Writ Petition.

4. Per contra, Mr. R. S. Selvam, learned Government Advocate appearing for the respondents 1, 2 and 4 and Mr. A. Arumugam, learned counsel appearing for the third respondent separately contended that the petitioner committed serious misconduct by forging the signatures of the President and Vice President of the Village Panchayat and withdrew the amounts of the Panchayat from the Bank account and misappropriated the same. A criminal case is also lodged against the petitioner. In view of the serious misconduct of forging the signatures of the President and Vice President and misappropriation of the funds of the Village Panchayat, the petitioner was removed from service and the order of removal is valid and legal and prayed for dismissal of the Writ Petition.

5. Heard the learned counsel appearing for the petitioner as well as third respondent and the learned Government Advocate appearing for respondents 1, 2 and 4 and perused the entire materials on record.

6. From the materials available on record and from the arguments of the learned counsels appearing for the petitioner and respondents it is seen that the petitioner was removed from service for allegedly forging the signatures of President and Vice President of the Village Panchayat and misappropriating the funds of the Village Panchayat. The respondents except suspending the petitioner from service has not issued any charge memo to the petitioner and did not follow the procedure for conducting domestic enquiry and without giving any opportunity to the petitioner to put forth his case, has removed the petitioner from service by passing of resolution by the second respondent. The said action of the respondents removing the petitioner from service without giving any opportunity to the petitioner is in violation of principles of natural justice. The respondents have not given any opportunity to the petitioner to put forth his case. Therefore the impugned resolution dated 25.11.2009 and order of removal dated 29.10.2010 are liable to be set aside and are hereby set aside.

7.In the result, this Writ Petition is allowed. It is open to the respondents to follow the procedures as per law and pass appropriate orders on merits and in accordance with law. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector &
Inspector of Panchayats,
Dharmapuri District,
Dharmapuri.
- 2.The President,
Thanduharanahalli Village Panchayat,
Palacode Taluk,
Dharmapuri District.
- 3.The Block Development Officer,
(Village Panchayats),
Palacode,
Dharmapuri District.
- 4.The Assistant Director of Rural Development,
Dharmapuri.

+1cc to Mr.R.Thamarai Selvan, Advocate sr.64941
+1cc to Mr.A.Arumugam, Advocate sr.65091
+1cc to Mr.R.S.Selvam, Advocate sr.65314
+1cc to Government Pleader sr.65470

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mp(co)
nr 26/09/2019