



WEB COPY

W.P(MD)No.418 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2019

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD) No.418 of 2012

and

M.P (MD) No.1 of 2012

Jeyakumar

... Petitioner

vs.

1) The District Collector,
Virudhunagar District,
Virudhunagar.

2) The Assistant Director (Panchayats),
Office of the District Collector,
Virudhunagar District.

3) The Block Development Officer,
(Panchayats)
Vembakottai Panchayat Union,
Virudhunagar District.

4) Panchayat President,
P.Thiruvengidapuram Panchayat,
Vembakottai Panchayat Union,
Virudhunagar District.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records from the file of the respondents with respect to the impugned dismissal order dated 21.12.2011 made on the file of the 4th respondent and quash the same and further direct the 4th respondent to reinstate the petitioner into the post of Panchayat Secretary.

For Petitioner : Mr.P.Mahendran

For Respondents : Mr.S.Dhayalan, Government Advocate



ORDER

The prayer in this writ petition is for issuance of a Writ of Certiorarified Mandamus, calling for the records from the file of the respondents with respect to the impugned dismissal order dated 21.12.2011 made on the file of the 4th respondent and quash the same and further direct the 4th respondent to reinstate the petitioner into the post of Panchayat Secretary.

2.Learned counsel for the petitioner would state that the petitioner was appointed as a Clerk in the 4th respondent panchayat and was receiving salary of Rs.5,350/- per month. The Government have issued G.O.Ms.No.55, by which, the post of Panchayat Clerk was rechristened as Panchayat Secretaries. It is further stated that the petitioner's mother Ms.U.Ponnuthai was the elected President of the 4th respondent panchayat in October 2011, the 4th respondent Ms.M.Subbulakshmi was elected as Panchayat President. From then onwards, the 4th respondent hired animosity against the petitioner's family and decided to unilaterally terminate the services of the petitioner. Accordingly, the petitioner was relieved from the post of Panchayat Clerk by order dated 21.12.2011 stating that he did not surrender the office registers, equipments, registers pertaining to resolutions, audit etc., to the 4th respondent on her assuming the post of President. In the impugned order it was also stated that during 2006-2011, the petitioner forged the signature of the 4th respondent while she was the 1st ward member and swindled her travel allowance, for which, a show cause notice dated 03.11.2011 was issued and since the petitioner did not submit his explanation, village committee passed a resolution to terminate the services of the petitioner. According to the petitioner, no such show cause notice was issued to him and no enquiry was conducted before passing the impugned termination order, thereby, the respondents violated the principles of natural justice. Thus, he would pray for setting aside the impugned order.

3.The 4th respondent filed counter affidavit. Learned Government Advocate appearing for the respondents would state that despite repeated demands by the 4th respondent/Panchayat President to produce all the register and tax accounts of the village panchayat in person, the petitioner/Panchayat Clerk did not produce the same and hence, the 4th respondent issued show cause notice which was served on the petitioner on 11.11.2011 followed by reminder on 03.12.2011. Since there was no reply from the petitioner, he was relieved from the post on 21.12.2011 and thereafter on 05.01.2012 a resolution was passed by the Panchayat Council removing the petitioner from service. Thus, he would pray for dismissal of the writ petition.



4. Heard both sides.

5. Perusal of record shows that when the matter came up for hearing on 03.12.2019, this Court passed the following order:-

'The grievance of the petitioner is before terminating him from service, no notice was issued and no enquiry was conducted.

Learned Government Advocate has stated that notice has been issued and since the petitioner did not reply to the notice, order of termination has been passed. He prays time to produce the copy of the notice along with the acknowledgment.

Post on 12.12.2019.

6. Today, the learned Government Advocate would produce the relevant file. Perusal of the file shows that no show cause notice was issued to the petitioner and no enquiry was conducted before passing the impugned termination order and therefore, in my considered opinion, the impugned order is passed in violation of the principles of natural justice and therefore, I am inclined to interfere with the impugned order.

7. Accordingly, the impugned order dated 21.12.2011 is set aside. Learned counsel for the petitioner would state that the 3rd respondent/Block Development Officer, (Panchayats), Vembakottai Panchayat Union, is now acting as Special Officer for the 4th respondent panchayat and would further state that the petitioner will not claim any backwages. In view of the said submission, the 3rd respondent is directed to reinstate the petitioner into the post of Panchayat Secretary within a period of four weeks from the date of receipt of a copy of this order. The petitioner shall not claim any backwages

With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)



To

1) The District Collector,
Virudhunagar District,
Virudhunagar.

2) The Assistant Director (Panchayats),
Office of the District Collector,
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3) The Block Development Officer,
(Panchayats)
Vembakottai Panchayat Union,
Virudhunagar District.

4) Panchayat President,
P.Thiruvengidapuram Panchayat,
Vembakottai Panchayat Union,
Virudhunagar District.

+1CC TO SPECIAL GOVERNMENT PLEADER IN (SR-104975[F] dated
13/12/2019)

ORDER MADE IN
W.P (MD) No.418 of 2012
DATED : 12.12.2019

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AE/ (03.01.2020) 4P 6C