



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A.[MD]Nos.1051 & 1052 of 2019

and

C.M.P.[MD]Nos.9660 & 9661 of 2019

1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Department of Municipal Administration &
Water Supply,
Secretariat,
Chennai.

2.The Director of Town Panchayat,
O/o. Director of Town Panchayat,
IV Floor,
Kuralagam,
Chennai - 108.

3.The District Collector,
Tuticorin District,
Tuticorin.

: Appellants in both Writ Appeals

Vs.

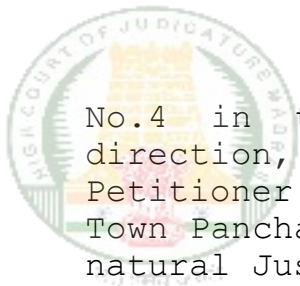
1.K.Dharmaraj
2.S.Vijaya Bharathi

: Respondents in both Writ Appeals

COMMON PRAYER: Writ Appeals are filed under Clause 15 of the Letters Patent, praying to set aside the orders dated 05.04.2018 made in W.P.[MD]Nos.23102 & 23918 of 2016, respectively, on the file of this Court and allow these Writ Appeals.

Prayer in WP(MD) . 23102/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Na.Ka.No. 3030/2016-2(5)/A6 dated 26.11.2016 on the file the Respondent No.2 in so far as promoting the Respondent



No.4 in the place of the Petitioner and consequently for a direction, forbearing the Respondent No.2 and 3 from reverting the Petitioner from the Post of Overseer at Sathankulam Selection Grade Town Panchayat, Tuticorin District in violation of the Principles of natural Justice.

Prayer in WP(MD). 23918/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Na.ka.No.3030/2016-1(3)/A6 dated 26.11.2016 on the file of the Respondent No.2 in so far as reverting the Petitioner from the Post of Overseer at Sathankulam Selection Grade Town Panchayat, Tuticorin District and quash the same as illegal.

For Appellants : Mr.A.K.Baskara Pandian
Special Government Pleader

COMMON JUDGMENT

[Common Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

The respondents in the writ petitions are appellants before this Court. The appellants are not aggrieved by the ultimate decision of the learned Writ Court but they are only aggrieved by the direction issued in paragraph No.42 of the impugned common order, whereby, a direction has been issued to the respondents to pay salary to the respondents / writ petitioners during the period when there was an order of interim stay in force in the writ petitions.

2.Learned Writ Court has pointed out that though an order of interim stay was granted in the writ petitions, the writ petitioners were not permitted to work in the promotional post.

3.Learned Special Government Pleader appearing on behalf of the appellants submitted that this observation is factually incorrect because immediately after the order of stay was granted, the department directed the respondents / writ petitioners to join the posts. However, they did not join the posts.

4.We find from the impugned order that there is no such argument placed before the learned Writ Court as has been done before us in these Writ Appeals. Therefore, on the ground raised by the appellants before us, we cannot interfere with the order passed in the writ petitions. However, if there is a factual error, which was apparent on the face record before the Writ Court, then it is well open to the appellants to seek for review of the common order issued in the Writ Petitions and the appeal is not the appropriate remedy.



WEB COPY

WA(MD) No.1051 of 2019

5. With the above observations, these Writ Appeals stand disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

MR

COMMON JUDGMENT MADE IN
W.A. [MD] Nos. 1051 & 1052 of 2019

Dated: 15.10.2019

CS (22.11.2019) 3P 1C