



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.08.2019
CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WEB COPY

W.P. (MD)No.17543 of 2019
and
W.M.P. (MD)Nos.14043 and 14044 of 2019

A.Mahalingam

... Petitioner

Vs.

1.The Personal Assistant to District Collector,
Trichy District.
Trichy.

2.The Block Development Officer,
Block Development Office,
Manachanallur,
Trichy.

3.The Special Officer,
Vaalaiyur Panchayat,
Manachanallur,
Trichy.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the entire records in connection with the impugned suspension order passed by the first respondent in Rc.R1/3155/2013, dated 22.07.2013, quash the same and consequently, direct the respondents to reinstate the petitioner into the service.

For Petitioner	: Mr.D.Anbarasu
For R1	: Mr.M.Pandiarajan Additional Government Pleader
For R2 and R3	: Mr.Aayiram K.Selvakumar Additional Government Pleader

ORDER

The petitioner has come up with the present Writ Petition seeking to quash the impugned suspension order passed by the first respondent in Rc.R1/3155/2013, dated 22.07.2013, and consequently, direct the respondents to reinstate the petitioner into the service.

2.According to the petitioner, he was working as Panchayat Secretary in the third respondent's Panchayat. Based on the complaint made by one Palaniappan, the petitioner was suspended from



service by the first respondent, vide his proceedings dated 22.07.2013. Seeking to quash the above said criminal case, the petitioner has filed Crl.O.P.(MD)No.5474 of 2014 and the same is pending. Pending the said criminal case, departmental proceedings were initiated against the petitioner and a charge memo has also been issued to him on 29.05.2018. The petitioner has also appeared before the second respondent for enquiry on 26.09.2018 and gave his detailed explanation, but, till date, no order has been passed. Hence, the present Writ Petition.

3.Mr.D.Anbarasu, learned counsel appearing for the petitioner submitted that subsistence allowance was not paid to the petitioner and the petitioner is under prolonged suspension and therefore, no prejudice would be caused to the respondents, if the suspension order is revoked and therefore, he prayed for allowing this Writ Petition.

4.Mr.Aayiram K.Selvakumar, the learned Additional Government Pleader appearing for the respondents 2 and 3 submitted that while the petitioner was working as Panchayat Secretary, a criminal case was registered against him, based on which, he was arrested on 20.07.2013 and remanded to judicial custody and therefore, he was suspended from service. He further submitted that since the petitioner failed to submit the details of the whereabouts, the respondents are not in a position to pay the subsistence allowance to him. If the petitioner approaches the respondents, the same will be considered.

5.I have considered the rival submissions made by the learned counsel appearing for the parties and perused the materials available on record.

6.Perusal of the available materials shows that the petitioner was placed under prolonged suspension for the past 6 years based on the complaint lodged by one Palaniappan. The petitioner has also filed Crl.O.P.(MD)No.5474 of 2014 seeking to quash the said criminal case and the same is pending before this Court. Further, the disciplinary proceedings were also initiated against the petitioner in the year 2013 and the charge memo has also been issued to him in the year 2018.

7.Considering the facts and circumstances of the case, this Court is of the view that the entire proceedings have been pending for more than 6 years, for one reason or the other without any fault on the part of the petitioner and therefore, if the petitioner has been reinstated in service, no prejudice would be caused to the Department by considering the above said facts of the case and if necessary, the petitioner has to be placed in a non-sensitive post by the respondent Department. Hence, this Court, in the interest of justice, is inclined to pass the following order:-



(i) The impugned order passed by the first respondent, dated 22.07.2013, is set aside.

(ii) The respondents shall consider the petitioner's request for reinstatement in any one of the non-sensitive posts in the District.

(iii) It is open to the petitioner to make a representation to the third respondent for payment of the subsistence allowance, within two weeks from the date of receipt of a copy of this order.

(iv) If any such representation is made, the third respondent shall pass appropriate orders in accordance with law, within a period of six weeks thereafter.

8.This Writ Petition is allowed to the extent indicated above. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Personal Assistant to District Collector,
Trichy District.
Trichy.

2.The Block Development Officer,
Block Development Office,
Manachanallur,
Trichy.

3.The Special Officer,
Vaalaiyur Panchayat,
Manachanallur,
Trichy.

+1 CC to M/s.D.ANBARASU, Advocate (SR-84243[F] dated 29/08/2019)
+1 CC to M/s.SPL GP (SR-84623[F] dated 30/08/2019)

W.P. (MD) No.17543 of 2019
29.08.2019

smn2

JM/17.09.2019/3P/6C