



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD)No.5995 of 2014

and

M.P.(MD)No.1 of 2014

S.I.Sumathi

... Petitioner

vs.

1.The District Collector-cum-Inspector
of Panchayat,
Collectorate,
Pudukottai District.

2.The Block Development Officer
(Village Panchayat),
Kundrandarkovil,
Kulathur Taluk, Pudukottai District.

3.The President,
Killukulavaipatty Panchayat,
Kundrandarkovil Panchayat Union,
Kulathur Taluk, Pudukottai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of the first respondent in his proceedings in Na.Ka.No.13896/2010/V1(Development), dated 16.03.2013 confirming the order of the third respondent in his proceedings in Na.Ka.No.6/2009, dated 10.10.2013 and to quash the same as illegal and consequently, to direct the respondents to reinstate the petitioner into service as Panchayat Assistant in Killukulavaipatti Panchayat.

For Petitioner :Mr.K.Baalasundharam

For R1 :Mr.M.Jeyakumar
Additional Government Pleader

For R2 and R3 :No appearance



O R D E R

This Writ Petition is filed by the petitioner to quash the order of first respondent, dated 16.03.2013 and the consequential order of third respondent, dated 10.10.2013 and to direct the respondents to reinstate the petitioner as Panchayat Assistant.

2.The petitioner was appointed as Panchayat Assistant in third respondent Panchayat in the year 1997. By order, dated 10.10.2013, the third respondent dismissed the petitioner from service and the petitioner was also directed to pay a sum of Rs.1,13,739/- towards the loss caused by the petitioner and to handover the documents, which were not handed over by the petitioner earlier. The order of third respondent was pursuant to the order of first respondent, dated 16.03.2013.

3.One of the main grounds raised in the writ petition is that the third respondent has no jurisdiction to pass an order of termination in view of Tamil Nadu Village Panchayat Secretaries (Conditions of Services), Rules 2013.

4.In exercise of powers conferred by sub-Section (1) of Section 102 of the Tamil Nadu Panchayats Act, 1994, the State has introduced the Rules, known as "Tamil Nadu Village Panchayat Secretaries (Conditions of Services), Rules 2013." As per the Rules, a Village Panchayat Secretary can be appointed through a Committee, consisting of Personal Assistant (Development) to the Collector, Assistant Director (Panchayats) and the Block Development Officer (Village Panchayats) of the Union concerned.

5.As per Rule 15, the Authority Competent to impose any of the penalty contemplated under the Rules shall be Personal Assistant (Development) to the Collector. It is not in dispute that the order of termination was passed in this case only by the President of the Village Panchayat. It is also not in dispute that the petitioner was appointed as Panchayat Clerk or Assistant in the Village and that the designation of the said post was changed as Village Panchayat Secretary. It is in the said circumstances, learned Counsel for the petitioner submitted that the order impugned in this writ petition is liable to be quashed on the short ground that the President has no jurisdiction or competency to pass an order of termination.

6.Though this Court is able to accept the contentions of the petitioner, the charges against the petitioner are serious in nature as they are relating to misappropriation of Panchayat Funds. Hence, this Court is inclined to pass the following order:

7.The Writ Petition is allowed and the impugned order passed by the third respondent, dated 10.10.2013, is set aside. However, respondents 1 and 2 are given liberty to proceed further against the



petitioner. The third respondent shall forward all the papers along with the charge memo to the Personal Assistant (Development) to the Collector, Pudukottai District. The Personal Assistant (Development) to the Collector, Pudukottai District, may pass appropriate orders after giving full opportunity to the petitioner and after considering the case on merits within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

cmr

To

- 1.The District Collector-cum-Inspector
of Panchayat,
Collectorate,
Pudukottai District.
- 2.The Personal Assistant
(Development) to the Collector,
Collectorate,
Pudukottai District.
- 3.The Block Development Officer
(Village Panchayat),
Kundrandarkovil,
Kulathur Taluk, Pudukottai District.

+1 CC to M/s.K.BAALASUNDHARAM, Advocate SR-91737.

+1 CC to M/s.GP SR-91862.

W.P. (MD)No.5995 of 2014

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CS(30.10.2019) 3P 6C