



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.8471 of 2014

and

M.P(MD)Nos.1 to 3 of 2014 and W.M.P(MD)No.20307 of 2017

M.Kannan @ Samuthirakani

.. Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
District Collectorate,
Tirunelveli - 9.

2.The Assistant Director of Panchayath,
Tirunelveli District,
District Collectorate,
Tirunelveli - 9.

3.The Block Development Officer,
Pappakudi Union,
Mukoodal,Ambasamuthiram Taluk,
Tirunelveli District.

4.The President,
Athalanallur Village Panchayath,
Athalanallur, Ambasamuthiram Taluk,
Tirunelveli District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 4th respondent made in his proceedings in No.Nil. dated 20.12.2013 and quash the same and consequently directing the 4th respondent to reinstate the petitioner into service as Over Head Water Tank Operator for the Over Head Tank situated at Adhi Dravidar Colony at Rajakuthalaperi Village, under the 4th respondent Village Panchayat and pass such further or other orders.

For Petitioner : Mr.M.Purushothaman

For Respondents 1 to 3 : Mr.D.Muruganandam,
Addl. Govt. Pleader.

For Respondent No.4 : No appearance

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 4th respondent made in his proceedings dated 20.12.2013 and quash the same and consequently direct the 4th respondent to reinstate the petitioner into service as Over Head Water Tank Operator for the Over Head Tank situated at Adhi Dravidar



Colony at Rajakuthalaperi Village under the 4th respondent Village Panchayat.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3.

3. The case of the petitioner is that on 02.08.2009, he was appointed as Over Head Water Tank Operator for the Over Head Water Tank situated at Adhi-Dravidar Colony at Rajakuthalaperi Village, which is come under the 4th respondent village panchayat. Since some electrical wires were found missing, he reported the same to the Vice President of the Village Panchayat, who lodged a complaint before the police. Due to that, the 4th respondent had enmity against him and also tried to remove him from service by convening a meeting at the office of the village panchayath with a view to pass a resolution against him and also did not allow him to discharge his duty. Therefore, he approached the respondents 1 to 3 by way of representations and the 3rd respondent conducted an enquiry, but he did not pass any order. All of a sudden, on 16.05.2014, the impugned order of dismissal has been affixed in his door, mentioning the dismissal date as well as the effect of dismissal on 20.12.2013. Against which, the present writ petition has been filed.

4. The learned counsel for the petitioner submitted that before passing the impugned order, no notice was issued to the petitioner and no opportunity was given to him for raising his objections and and hence, the impugned order is liable to be set aside.

5. The learned Additional Government Pleader appearing for the respondents 1 to 3 drawing the attention of this Court to paragraph No.7 of the counter affidavit filed on the side of the third respondent, submitted that before passing the impugned order of dismissal, no notice was issued to the petitioner and the resolution in respect of dismissal has been passed without properly convening the panchayat meeting and on the strength of the dismissal order, the 4th respondent obstructed the petitioner from doing his work in the panchayat. Therefore, the 3rd respondent herein after having went through the entire dispute, had passed a detailed order vide A3/1441/2013, dated 16.06.2014, mentioning the lacunae on the part of the 4th respondent and there was a specific direction to the 4th respondent to reinstate the petitioner and the said order was served on the petitioner and he has also acknowledged the same. It is reliably understood that 4th respondent did not allow the petitioner to join duty.

6. It is settled law that before passing an order affecting the right of a person, an opportunity should be given to the person concerned. Here, in this case, no such opportunity was granted to the petitioner before passing the impugned order. Considering the



fact that the petitioner has been working as Over Head Water Tank Operator from 02.08.2009 and the impugned order of dismissal has been passed without issuing any notice to the petitioner and also considering the fact that the 3rd respondent has already directed the 4th respondent to reinstate the petitioner, this Court is inclined to quash the dismissal order. Accordingly, the impugned order, dated 20.12.2013 passed by the 4th respondent, is quashed and the 3rd respondent, who acts as the Special Officer of the 4th respondent panchayat, is directed to reinstate the petitioner into service as Over Head Tank Operator for the over Head Tank situated at Adhi Dravidar Colony at Rajakuthalaperi Village under the 4th respondent village panchayat, forthwith. The petitioner will be entitled to 50% of the backwages. The backwages payable to the petitioner shall be disbursed within a period of eight weeks from the date of receipt of a copy of this order. The writ petition is allowed accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

smn

To

- 1.The District Collector,
Tirunelveli District,
District Collectorate,
Tirunelveli - 9.
 - 2.The Assistant Director of Panchayath,
Tirunelveli District,
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 - 3.The Block Development Officer,
Pappakudi Union,
Mukoodal,Ambasamuthiram Taluk,
Tirunelveli District.
 - 4.The President,
Athalanallur Village Panchayath,
Athalanallur, Ambasamuthiram Taluk,Tirunelveli District.
- +1 CC to M/s.M.KANNAN, Advocate (SR-104079[F] dated 09/12/2019)
+1 CC to M/s.SPL GP (SR-104197[F] dated 10/12/2019)

ORDER MADE IN
W.P (MD)No.8471 of 2014
09.12.2019

SMA/10/01/2020/3P/7C