



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P(MD).No. 14976 of 2016
and W.M.P. (MD) Nos. 11039 & 11040 of 2016

A. Chitra Moorthy : Petitioner

Vs.

1. The District Collector,
Ramnad District, Ramnad.

2. The Block Development Officer,
Panchyat Union, R.S. Mangalam,
Ramnad District.

3. The Deputy Block Development Officer,
Panchayat Union, R.S. Mangalam,
Ramnad District.

4. The President,
A. Manakkudi Panchayat,
R.S. Mangalam Panchayat Union,
Ramnad District.

: Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India for issuing a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the fourth respondent in the order No. Na.Ka.OO.1/1/2011, dated 02.07.2012 and quash the same and to direct the respondents to pass orders on the representation of the petitioner, dated 21.06.2016 and to revoke the suspension and re-instate the petitioner into service.

For Petitioner : Mr.M.MD.Ibrahim Ali
For Respondent-1 : Mr. Aayiram K. Selvakumar
Additional Government Pleader
For Respondents-2 to 4 : Mr.M. Pandiarajan,
Additional Government Pleader

ORDER

The writ petition has been filed to quash the impugned order, dated 02.07.2012 in the order No. Na.Ka.OO.1/1/2011, passed by the fourth respondent and also sought for a direction to the respondents

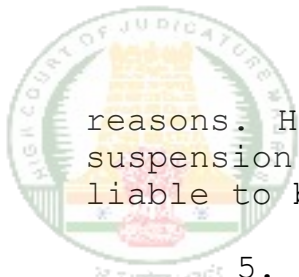


to consider the petitioner's representation, dated 21.06.2016 and to revoke the suspension and to re-instate the petitioner into service.

2. The grievance of the petitioner is that he has joined duty as Panchayat Assistant on 23.03.2007 and subsequently, he was promoted as Panchayat Secretary. In the meantime, the fourth respondent has passed the impugned suspension order under Section 106 of Tamil Nadu Panchayat Act, 1994, dated 02.07.2012 on the ground that non production of the accounts before the audit authority. He further stated that on 25.01.2012 itself, he has produced the accounts before the audit authority and there is no fault on the part of the petitioner, therefore, without verification, the fourth respondent has passed suspension order, thereafter, neither an enquiry was conducted nor a final order is passed by the respondent submitted that he made a representation on 21.06.2016 before the first respondent to revoke his suspension and permit the petitioner to joint duty. The first respondent sent reply on 15.07.2016 stating that the suspension will be revoked after receiving proposal from the second respondent. Till date, the suspension order was not revoked. Hence, the instant writ petition is filed.

3. The second respondent filed a counter affidavit and stated that the petitioner has not submitted the records relating to the audit for the year 2009 - 2010, 2010-2011 on 25.01.2012 and he should have submitted the accounts for audit for the year 2009 - 2010, after 31.03.2010 and for the year 2010-2011, after 31.03.2011, after six months of closure of financial year. Therefore, the petitioner has failed to discharge his duties promptly in submitting the accounts for audit and hence, he was placed under suspension. It is further stated that, if a delinquent official failed to submit his explanation within the specified timeline, he may be terminated from services, but the petitioner has not been terminated from service and he is only directed to submit his explanation, but the petitioner has not submitted any explanation to the authorities concerned.

4. On a perusal of the above said counter affidavit, the second respondent has not stated about the initiation of departmental proceedings against the petitioner for the above said failure of the writ petition. Therefore, prolonged suspension passed against the petitioner by the impugned order, dated 02.07.2012 is illegal and the same is unsustainable in law. On a perusal of the impugned suspension order, the petitioner was placed under suspension for the reason that he has not submitted his explanation within Seven days and the above said order was passed on 02.07.2012. As on now, the respondents has not initiated any disciplinary proceedings against the petitioner, to that extent, no materials has placed before this Court. Therefore, placing the petitioner under prolonged suspension is illegal and without any



reasons. Hence, this Court has no hesitation to quash the impugned suspension order and accordingly, the impugned suspension order is liable to be quashed.

5. In view of the above, the impugned order, dated 02.07.2017 passed by the fourth respondent in Order No.Na.Ka.OO.1/1/2011 is quashed. It is open to the respondents to pass orders afresh, if so advised.

6. With the above observations, this Writ Petition is allowed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-III)

/TRUE COPY/

Sub Assistant Registrar

To

1. The District Collector,
Ramnad District, Ramnad.
2. The Block Development Officer,
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Ramnad District.
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Panchayat Union, R.S. Mangalam,
Ramnad District.
4. The President,
A. Manakkudi Panchayat,
R.S. Mangalam Panchayat Union,
Ramnad District.

+1 CC to M/s.MOHAMED IBRAHIM ALI, Advocate (SR-80638[F] dated 08/08/2019)

W.P(MD) .No. 14976 of 2016
07.08.2019

ksa

JM/17.09.2019/3P/6C