



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P.(MD)No.5595 of 2013

S.Sathiyavanimuthu

... Petitioner

-Vs-

1.The District Collector / Inspector of Panchayats,
Ramanathapuram District,
Ramanathapuram.

2.The Personal Assistant to Collector (Development),
Collectorate,
Ramanathapuram District,
Ramanathapuram.

3.The President,
Kolunthurai Village Panchayat,
Muthukulathur Panchayat Union,
Ramanathapuram District.

... Respondents

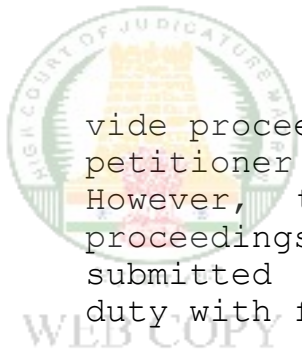
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the first respondent in his proceedings Na.Ka.M 1 /29400/2012 dated 11.02.2013 and quash the last paragraph alone and consequently direct the respondents to treat the period of suspension as duty period and to grant all attendant and monetary benefits to the petitioner.

For Petitioners : Mr.M.Saravanakumar
For R1 and R2 : Mr.S.Dhayalan
Government Advocate
For R3 : Mr.J.Gunaseelan Muthiah

ORDER

The relief sought for in the present petition is to quash the order dated 11.02.2013 rejecting the claim of the writ petitioner to treat the period of suspension as duty period and to grant all attendant and monetary benefits.

2. The writ petitioner was appointed as Panchayat Assistant at Kolunthurai Village Panchayat on 01.06.2001 and on account of certain allegations, the writ petitioner was placed under suspension



vide proceedings, dated 14.06.2012. The allegation against the writ petitioner is regarding misappropriation of Panchayat Union Funds. However, the writ petitioner was reinstated in service vide proceedings, dated 28.01.2013. Thereafter, the writ petitioner submitted a representation to recall the period of suspension as duty with full salary.

3. The reasons for not concluding departmental disciplinary proceedings are not explained. The District Collector, Ramanathapuram District is directed to look into the files and ascertain the enquiry conducted regarding misappropriation of funds of Kolunthurai Village Panchayat. If any irregularity or illegality is identified in respect of concluding departmental disciplinary proceedings, the District Collector should ascertain the same and then suitable actions are to be taken against all concerned officers.

4. On initiation of departmental disciplinary proceedings, the competent authority must ensure that proper enquiry had been conducted and the same is concluded in accordance with the rules in force and the proceedings are reached its logical conclusion. The writ petitioner was placed under suspension on account of certain serious allegations. Undoubtedly, prolonged suspension is bad in law. There is no infirmity in respect of the order of suspension. Further continuance of the departmental disciplinary proceedings are not explained in the order.

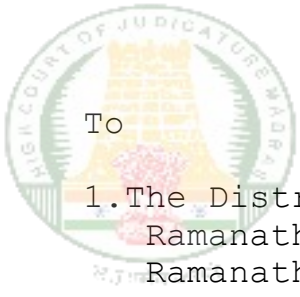
5. Thus, this Court is of the considered opinion that the period, in which the writ petitioner has not worked in the post, cannot be treated as duty with full salary. The doctrine of no work no pay is a fundamental axiom. Therefore, the writ petitioner is not entitled to get salary by regulating the period as duty. If at all any illegalities are identified, actions must be taken for the purpose of identifying misappropriation or other illegalities. The first respondent / District Collector is directed to look into the files in relation to the entire allegation and take a decision on merits and in accordance with law within a period of two weeks from the date of receipt of a copy of this order. As far as the claim of the writ petitioner to regulate the period of suspension as duty cannot be considered and accordingly, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The District Collector / Inspector of Panchayats,
Ramanathapuram District,
Ramanathapuram.

2.The Personal Assistant to Collector (Development),
Collectorate, Ramanathapuram District,
Ramanathapuram.

+1 CC to SPL GP SR-68448.

+1 CC to M/s.M.SARAVANA KUMAR, Advocate SR-68644.

W.P. (MD) No.5595 of 2013
12.06.2019

CS: (09/07/2019) 3P 5C