

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 05.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No. 6596 of 2013
and
MP.No.1 of 2013

Subramaniyan

.. Petitioner

- Vs -

1.President Selvi Elumalai,
Anaiyalai Panchayat,
Kalasapakkam Panchayat Union
Thiurvannamalai District.

2.The Commissioner,
Anaiyalai Panchayat Board,
Kalasapakkam Panchayat Union
Thiurvannamalai District.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, directing the respondent to make payment of salary to the petitioner from April 2011 till this date and to continue to pay the salary as per Panchayat Rule to petitioner as over tank operator and grant such other further orders.

For Petitioner : M/S.R.T.Sundarai

For Respondent :Mr.A.N.Thambidurai, Spl.G.P. For R1
:M/S.M.Perumal for R2

ORDER

The writ petitioner has filed the writ petition for a direction to the respondent to make payment of salary to the petitioner from April 2011 till this date and to continue to pay the salary as per Panchayat Rule to the petitioner as over tank operator and grant such other further orders.

2.The case of the petitioner is that he was appointed by panchayat board resolution dated 12.03.2010 as Over Tank Operator and it was made from 21.03.2010 and he has been working in the said post since then on consolidated monthly salary of Rs.1430 and the said payment of salary was stopped from April

2011. The petitioner averred that the 1st respondent and the petitioner's wife namely one Andal contested for the election to the post of Panchayat President. In the election, the petitioner's wife was defeated and the 1st respondent was elected as President. Entertaining enmity with his wife, the 1st respondent refused to pay monthly salary to the petitioner. Hence the petitioner filed this petition with the above said prayer.

3. Learned counsel appearing for the petitioner submitted that though the service of the petitioner was terminated by way of resolution, the petitioner is entitled for salary till his date of appointment.

4. Per contra, learned counsel appearing for respondents submitted that when the petitioner was appointed on 06.03.2010 by way of resolution No.51/2010, at that time the petitioner's wife, Andal, was functioning as President and by collusion the petitioner was appointed, and subsequently the 1st respondent was elected as President in October 2011 and the 1st respondent passed resolution No.15/12 dated 20.12.2011 and terminated the services of the petitioner. Without challenging the termination order passed by the 1st respondent, filing this writ petition for issuing mandamus is not maintainable.

5. This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

6. The facts in the present case are not in dispute. The petitioner having been terminated from service by the resolution passed by the Panchayat under the Presidentship of the 1st respondent, without challenging the said order of termination, it is not open to the petitioner to pray this Court for a direction to the respondent to pay salary to the petitioner till date. The prayer as sought for by the petitioner is not maintainable in the absence of any challenge being made to the order of termination. In the above backdrop of the facts and circumstances of the case, this Court is of the considered view that no mandamus, as sought for could be issued.

7. For the reasons aforesaid, this writ petition stands dismissed. Consequently connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

jrs

To

1. President Selvi Elumalai,
Anaiyalai Panchayat,
Kalasapakkam Panchayat Union
Thiurvannamalai District.

2. The Commissioner,
Anaiyalai Panchayat Board,
Kalasapakkam Panchayat Union
Thiurvannamalai District.

W.P. NO.6596 OF 2013

A.SK(06/10/2020)



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