

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.01.2020

CORAM

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No. 34672 of 2016

S.Anthonysami

..Petitioner

Vs

1. The District Collector,
Collectorate Building, Cuddalore.

2. The District Revenue Officer,
South Arcot, Cuddalore,
Cuddalore District.

3. The Tahsildar,
Panruti Taluk,
Cuddalore District.

4. The Village Administrative Officer,
Vadakuthu Village,
Panruti Taluk.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents herein to permit the petitioner herein to perform his legally enshrined duty in the post of Village Assistant borne on the establishment in Kurinjipadi Taluk in which he was working immediately before being prevented to perform his duty and to count on the service of the petitioner without taking into effect of his non-performance of duty caused by the act of prevention of the Village Administrative Officer since 15.07.2015 besides complying with the directions contained in the order passed by this Hon'ble High Court in W.P.No.5842/2005, dated 22.02.2005, W.P.No.33998 of 2005 dated 25.07.2007.

For Petitioner : Mr.Haja Mohideen Gisthi
For Respondents : Mr.R.Ramesh - For R1 to R4
Addl. Government Pleader

O R D E R

This Petition has been filed for issuance of Writ of Mandamus directing the respondents herein to permit the petitioner herein to perform his legally enshrined duty in the post of Village Assistant borne on the establishment in Kurinjipadi Taluk in which he was working immediately, before being prevented to perform his duty and to count on the service of the petitioner, without taking into effect of his non-performance of duty caused by the act of prevention of the Village Administrative Officer since 15.07.2015, besides complying with the directions contained in the order passed by this Hon'ble High Court in W.P.No.33998 of 2005 dated 25.07.2007.

2. The case of the petitioner is that he was appointed as Village Assistant in the Revenue Department on 31.03.2008 in Veera Singan Kuppam Village at Panruti Taluk and till 2009, he was working at Vadakuthu Village, Pantuti Taluk. Thereafter, the petitioner has given a representation to the Tahsildar to transfer him to Kurinjipadi Taluk. On 18.01.2011, the Revenue Division Officer, Cuddalore has also sent a recommendation letter to the Tahsildar, Panruti Taluk, to transfer the petitioner to Kurinjipadi Taluk. However, the same was refused.

3. Till 2009, the petitioner's service was not regularized and the respondents have not paid his salary from 01.09.2011. In this regard, the petitioner has sent several representations dated 01.09.2011, 11.06.2012 and 14.09.2013 to the respondents 1 to 3. But no action has been taken by them. Hence, the petitioner had filed a writ petition bearing W.P.No.20518 of 2014 before this Court for regularizing the service of the petitioner and payment of the arrears of salary from 01.09.2011.

4. During the pendency of the case, the 4th respondent viz., Village Administrative Officer, orally directed the petitioner not to come to work and refused to do any work from that day onwards and the respondents terminated the petitioner's services with effect from 15.07.2015. But they have not issued any proceedings. Hence, the petitioner has filed the present writ petition before this Court.

5. The learned counsel for the petitioner would submit that on 31.08.2008, the petitioner was appointed as Village Assistant at Veera Singan Kuppam in Panruti Taluk and thereafter, he was working in various places. The respondents have not regularized the service of the petitioner and they have not paid his salary from 01.09.2011. The petitioner had filed a writ petition before this Court seeking monetary benefits and to pay the arrears of salary from 01.09.2011. Thereafter, the respondent have

terminated the service of the petitioner without following any rules. Therefore, the learned counsel for the petitioner prays to allow this writ petition.

6. On the other hand, the learned Government Advocate would submit that the Tahsildar, Panruti, has denied the salary arrears of the petitioner from 01.09.2011. Because the petitioner's service book and last pay certificate were sent to Kurinjipadi Taluk Office vide letter No.Na.Ka.A3/13032/2011, dated 23.04.2013. In turn, the Tahsildar, Kurinjupadi refused to accept the above said letter because the petitioner was not working as a Village Assistant in the Kurinjipadi Taluk. Therefore, the Tahsildar, Panruti conducted an enquiry as to whether the petitioner is working in the village or not. On 11.10.2019, the Tahsildar conducted an enquiry and found that the petitioner was not working in any village at Kurinjipadi or Panruti. Finally, the Tahsildar, Panruti Taluk, came to a conclusion that the petitioner has taken long leave and was continuously absent without any permission or intimation to the authorities from 01.09.2011 and also found a statement dated 07.09.2011 sent by the Village Administrative Officer, Veerasingankuppam Village, to the Tahsildar, Panruti stating that the petitioner was not working in Veerasingankuppam Village from 01.09.2011. Therefore, the Tahsildar, Panruti sent a letter vide A3/11034/2011 recommending Departmental Disciplinary action against the petitioner, for taking long and continuous leave without any permission or any intimation to his authorities. Therefore, the petitioner has not rights to ask his pay salary arrears from 01.09.2011 till now. The learned Government Advocate sought for dismissal of the writ petition.

7. Heard the learned counsel for the petitioner as well as the learned Government Advocate and also perused the materials available on records.

8. According to the petitioner, he was working as Village Assistant from 31.03.2008. But the respondents have not regularized his service and paid his salary from 01.09.2011 till today. Further, the respondents have terminated the service of the petitioner orally without following any procedures. According to the respondents, they have found out that the petitioner was not working in any village, whether it is Kurinjipadi or Panruti Taluk and also he has taken long leave without any permission or intimation to his higher officials.

9. In view of the above submissions made by both the counsels, this Court is inclined to direct the first respondent, namely District Collector, Cuddalore District, to conduct a detailed enquiry and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order.

The first respondent has to provide an opportunity of personal hearing to the petitioner, if necessary.

10. With the above directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

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To

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Collectorate Building, Cuddalore.

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Cuddalore District.

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4. The Village Administrative Officer,
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+1cc to Mr.Haja Mohideen Gisthi, Advocate, SR.No.7329.
+1cc to Government Pleader, SR.No.7245.

W.P.No. 34672 of 2016

MR(CO)
CSR: 26.02.2020

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