



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.11170 of 2020

and

W.M.P. (MD) .No.9757 of 2020

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Alagarsamy

... Petitioner

Vs.

1.The District Collector cum
The Inspector of Panchayat,
Madurai District Collectorate,
Madurai-625020.

2.The Block Development Officer (Village Panchayats),
Office of Panchayat Union,
T.Kallupatti Panchayat Union,
Madurai District.

3.The President,
Nallamaram village Panchayat,
Nallamaram - 625 702,
Periyar Taluk,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents from illegally ousting the petitioner from service in the third respondent panchayat as OHT operator and directing the respondents to disburse the salary to the petitioner from September 2019 will all arrears, increment and attendant benefits.

For Petitioner	: Mr.K.K.Kannan
For R1 to R3	: Mr.A.Thiyagarajan
	Government Advocate

ORDER

The prayer sought for herein is for a Writ of Mandamus forbearing the respondents from illegally ousting the petitioner from service in the third respondent panchayat as OHT operator and directing the respondents to disburse the salary to the petitioner from September 2019 with all arrears, increment and attendant benefits.

2.The petitioner has been working as a Over Head Tank operator (OHT) at the third respondent Village Panchayat. It is the case of

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the petitioner that, though he has been continuously working as such, the third respondent has not paid the salary for him from September, 2019 till date. However, it is the case of the third respondent that for the past six months, the petitioner has not attended duty. Therefore, on 26.03.2020, a show cause notice has been given and that has not been responded. At this juncture, the petitioner has approached this Court with the aforesaid prayer.

3.The learned counsel appearing for the petitioner would submit that, the petitioner has been continuously working, despite the same salary has not been given. He has admitted that in response to the show cause notice dated 26.03.2020 only a oral reply was given and no written explanation was given.

4.The learned Government Advocate on instructions would submit that, for the past six months, the petitioner has not come to work and not has chosen to give reply to the show cause notice dated 26.03.2020. Therefore, the question of paying salary to him does not arise.

5.Be that as it may, having taken into account the specific statement and also the factual matrix projected by both sides, this Court is inclined to pass the following orders;

" a) that the petitioner shall give reply to the show cause notice given by the third respondent dated 26.03.2020 within a period of two weeks from the date of receipt of a copy of this order. After receipt of the reply, the third respondent shall decide the same and if he ultimately decides to reject the reply to be given by the petitioner and in this regard any disciplinary action the third respondent wants to take against the petitioner, he can do so, provided, he should follow the procedure established under law in this regard.

b)Insofar as the claim of the petitioner, for getting salary for the past nearly about one year from September, 2019 onwards, it is open to the petitioner to establish that he attended duty for all these months, despite the same, salary was not given and to that effect, liberty is given to the petitioner to make a claim with supporting documents and if such a claim is made, the same shall also be considered by the third respondent on merits and in accordance with law and accordingly decide whether the petitioner is entitled to get salary for the said period. Till these exercises are completed including the exercise of disciplinary proceedings, if any to be initiated, the service of the petitioner shall not be disturbed by terminating him without following the due process of law.

c)Since the respondent claims that for the past six months the petitioner was not attended for duty, that itself can be treated as a reason, for taking disciplinary action, available with the third respondent."



6. With this direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pnn

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector cum
The Inspector of Panchayat,
Madurai District Collectorate,
Madurai-625020.

2. The Block Development Officer (Village Panchayats),
Office of Panchayat Union,
T.Kallupatti Panchayat Union,
Madurai District.

+1 CC to M/s.K.K. KANNAN, Advocate (SR-16410[F] dated 09/09/2020)

W.P. (MD) No.11170 of 2020
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AP(29.10.2020) 3P 4C