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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

WRIT PETITION NOS.21948 OF 2021

(Through Video Conferencing)

M.Selvaraj

... Petitioner

.Vs.

1. The District Collector,
Kallakurichi District,
Kallakurichi.
2. The District Revenue Officer,
Kallakurichi District,
Kallakurichi.
3. The Revenue Divisional Officer,
Thirukoilur,
Kallakurichi District.
4. The Tahsildar
Thirukoilur Taluk,
Kallakurichi District.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the 3rd Respondents to reinstate the Petitioner in the post of Village Assistant by considering his representation dated 27.08.2021.

For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.L.S.M.Hasan Fizal
Government Advocate



O R D E R

The Petitioner was placed under suspension on 02.10.2018 pursuant to his intra family dispute. It appears that a complaint was filed by the Petitioner's younger brother pursuant to which he was remanded to the judicial custody and thereafter enlarged on bail. The Petitioner has sent a representation asking the Respondents to reinstate the Petitioner into service.

2. The learned counsel for the Petitioner submits that the Petitioner has not been issued with any charge memo so far but continues to be placed under suspension. The Petitioner therefore sent a representation dated 27.08.2021. However, the aforesaid representation has not evoked any response.

3. Appearing on behalf of the Respondents, the learned Government Advocate submitted that the Petitioner appears to have been suspended due to disputes between some private parties. The learned Government Advocate further submits that this writ petition is liable to be dismissed for lack of propriety on the part of the Petitioner inasmuch as the intra departmental communication dated 23.10.2021 has been obtained without authorization and has filed in this writ petition.

4. Heard the learned counsel for the Petitioner and the learned Government Advocate appearing for the Respondents and perused the suspension order and representation of the Petitioner dated 27.08.2021.

5. Considering the fact that no charge memo has been issued till date and the Petitioner continues to be placed under suspension which has been contrary to the decision of the Hon'ble Supreme Court in Ajay Kumar Choudhary vs. Union of India reported in 2015 (7) SCC 291. In fact the case of the uniformed service, the Hon'ble Supreme Court in State of Tamil Nadu, rep. by Secretary to Government vs. Promod kumar and another, 2018 (17) SCC 677, has also held that keeping the Government Servant under suspension for three years without issuing charge memo where no serious complaints are pending cannot be sustained. Since no charge memo has been issued till date, this writ petition is disposed by directing the 3rd Respondent to reinstate the Petitioner into service within a period of four weeks from the date of receipt of a copy of this order. While reinstating the Respondents, the Respondents may consider the positing of the Petitioner in any non sensitive post where the Petitioner will not get an opportunity to tamper with the evidence against him. In case, already a charge memo has been issued to the Petitioner, the Respondents are directed to complete the Disciplinary Proceedings within a period of six months thereafter.



6. This writ petition is disposed of with the above directions. No costs.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rrg

To

1. The District Collector,
Kallakurichi District,
Kallakurichi.
2. The District Revenue Officer,
Kallakurichi District,
Kallakurichi.
3. The Revenue Divisional Officer,
Thirukoilur,
Kallakurichi District.
4. The Tahsildar
Thirukoilur Taluk,
Kallakurichi District.

+1cc to Mr.R.Jayaprakash, Advocate, S.R.No.52876
+1cc to the Government Pleader, S.R.No.53544

W.P.NO.21948 OF 2021

KG (CO)
PBS/09/11/2021