



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.A. (MD)Nos.59 and 92 of 2010

and

M.P (MD)Nos.1 and 3 of 2010

(Through video conference)

The President,
Kattakamanpatty Panchayat,
Nilakottai Taluk,
Dindigul District.

.. Appellant/2nd Respondent
in W.A(MD)No.59 of 2010

R.C.Manoharan

.. Appellant/3rd Party
in W.A(MD)No.92 of 2010

Vs.

1.R.Kamatchi

.. 1st Respondent / Petitioner
in both appeals

2.The District Collector,
Dindigul District,
Dindigul.

.. 2nd Respondent/Respondent No.1
in both appeals

3.The President,
Kattakamanpatty Panchayat,
Nilakottai Taluk,
Dindigul District.

.. 3rd Respondent/2nd Respondent
in W.A (MD)No.92 of 2010

COMMON PRAYER: Writ Appeals are filed under Clause 15 of the Letters Patent Act, against the order dated 18.12.2009, made in W.P (MD)No.7 of 2007.

Prayer in WP(MD) No.7 of 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the 1st respondent to reinstate the petitioner in service with backwages and all attendant benefits within the period that may be stipulated by this Honorable court.



For Appellant
in W.A(MD)No.92 of 2010

: Mr.K.Anandan

For Appellant
in W.A(MD)No.59 of 2010

: Mr.Briston Romario
For Mr.M.K.Hidayatullah

For R1
in both appeals

: Mr.Karthick Raja
for M/s.Ajmal Associates

For R2
in both appeals

: Mr.S.P.Maharajan
Special Government Pleader

For R3 in W.A(MD).No.92 of 2010 : No appearance

COMMON JUDGMENT

These two appeals are preferred against the order of the learned Single Judge passed in W.P(MD)No.7 of 2007. Hence, these appeals are taken up together and disposed of by way of this common judgment.

2. The writ petition filed by one Kamatchi, who is the first respondent in both the appeals filed a writ of mandamus to direct the District Collector of Dindigul to reinstate him in service with backwages and all attendant benefits within a period prescribed. His case was that he was appointed as a part-time Assistant in Kattakamanpatti Village Panchayat with effect from 01.02.2006 vide order No.1/2006, dated 01.02.2006, issued by the President, Kattakamanpatti Panchayat. But he was orally terminated within a period of four months, that is, in November 2006. Hence a direction as prayed in the writ petition been issued, though the respondent contended that the averments made in the affidavit are totally false, untrue and imaginary and there is no appointment order in favour of the petitioner Kamatchi. The documents were fabricated for the purpose of securing a job.

3.The learned Single Judge of this Court perusing the appointment order dated 01.02.2006 has believed it as genuine and allowed the writ petition partly, directing the second respondent to reinstate the petitioner forthwith in service without backwages. Aggrieved over the said direction, the President of the said panchayat has preferred W.A(MD)No.59 of 2010.

4.One Mr.Manoharan, who infact was in service as Panchayat Assistant, whose employment become at stake due to the impugned order, obtained leave of this Court and preferred W.A(MD)No.92 of 2010.



5.Both the matters came up for consideration before this Court and a direction was issued to the District Collector on 12.04.2016 to verify the records and file a report. The District Collector has submitted a report to this Court. Manoharan was not made as a party in W.P(MD)No.7 of 2007 filed by Kamatchi. Manoharan was placed under suspension and due to the inaction of the society in proceedings departmentally, the suspension was revoked and he was reinstated. In the meantime, Kamatchi was diverted of his duties without challenging the termination and without making Manoharan as a party, the writ petition has been filed for a mandamus, which was acceded by the learned Single Judge and relief has been granted without backwages putting him in service.

6.Since the impugned order of the Single Judge was in detrimental to the employment of Manoharan, he has placed the facts before this Court and obtain leave to challenge the impugned order of the learned Single Judge and the same has been acceded. Thus W.A (MD)No.92 of 2010 has come to be filed.

7.Now on perusing the report of the District Collector, this Court finds that the alleged appointment order of Kamatchi, dated 01.02.2006, which has carried weight in the mind of the learned Single Judge itself found to be a fabricated document and the alleged meeting of the Panchayat and the resolution passed for appointing Kamatchi as Panchayat Assistant is a false proceeding and infact, there was no meeting conducted on 01.05.2004. The signatures of the members of the panchayat were forged signatures. Thus the other records also does not show that even for the period of four months of the alleged employment of Kamatchi, he has discharged any services, however, consolidated pay of Rs.1000/- p.m., has been paid to him. All these manipulation of records had been done by the then President of the Panchayat. The detailed report submitted by the District Collector clearly indicates that in order to secure a public employment, the first respondent Kamatchi in connivance with the then President of Panchayat has manipulated the records and has produced a fabricated appointment order before this Court and also partially succeeded.

8.This Court, considering the records, was initially inclined to impose heavy cost to the first respondent Kamatchi and also to take action against him for producing false document before this Court to get a favourable order. However, at the request of the learned counsel appearing for the first respondent we drop the proposal of imposing cost. However, the salary of Rs.1000/- p.m. wrongly paid by the appellant society to Kamachi, has got to be recovered from Kamatchi/1st respondent herein and the former President/Gandhi and both are jointly or severally liable to return the said amount to the appellant society.



9. In result, for the reasons stated above, both the writ appeals are allowed. The order passed by the learned Single Judge in W.P(MD)No.7 of 2007 dated 18.12.2009 is hereby set aside. No Costs. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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

The District Collector,
Dindigul District,
Dindigul.

+1 CC to M/s. AJMAL ASSOCIATES, (SR-36259(F) Dated 29/11/2021)

+1 CC to M/s.K.ANANDAN, Advocate (SR-35947[F] dated 25/11/2021)

+1 CC to M/s.J. BRISTON ROMARIO, Advocate (SR-35948[F] dated 25/11/2021)

+1 CC to M/s.SPL GP (SR-36070[F] dated 26/11/2021)

W.A. (MD) Nos.59 and 92 of 2010

25.11.2021

USK (30.12.2021) 4P 6C