



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.14612 of 2021

K.Arumugam ... Petitioner

-vs-

1.State of Tamil Nadu,
Rep. by The District Collector,
Collectorate Campus, Dindugul.

2.The Assistant Director,[Panchayats]
Office of the Assistant Director [Panchayats],
Dindigul.

3.The Block Development Officer,
Office of the Block Development Officer,
Vedasandur,
Vedasandur Taluk,
Dindigul District.

4.The President,
Kalvarpatti Panchayat,
Vedasandur Taluk,
Dindigul District.

5.Dr.Suguna

6.Balusamy ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus, directing the respondents 1 to 3 to consider the petitioner's representations dated 13.04.2020, 08.06.2020 and 16.03.2020 respectively and consequently direct the respondents 1 to 3 to direct the 4th respondent to reinstate the petitioner to the post of water Over Head Tank Operator for Kalvarpatti Panchayat, Vedasandur Taluk, Dindigul District with all service and monetary benefits within the time frame fixed by this Hon'ble Court.

For Petitioner : Mr.R.Senthilkumar

For Respondents : Mr.A.K.Manickam,
Standing Counsel for Government for R1 to R3
Mr.A.Mohan,
for R4 and R5



O R D E R

This Writ Petition has been filed for the issue of a Writ of Mandamus, directing the respondents 1 to 3 to consider the petitioner's representations dated 13.04.2020, 08.06.2020 and 16.03.2020 respectively and consequently direct the respondents 1 to 3 to direct the fourth respondent to reinstate the petitioner to the post of water Over Head Tank Operator for Kalvarpatti Panchayat, Vedasandur Taluk, Dindigul District with all service and monetary benefits.

2. According to the petitioner, the petitioner was appointed as Overhead Water Tank Operator in the fourth respondent Panchayat viz., Kalvarpatti Panchayat, Vedasandur Taluk, Dindigul District in the year 2004 and the fourth respondent Panchayat has paid a salary of Rs.2,500/- per month. Till date, the same amount has been received by the petitioner. According to the petitioner, with an unblemished record he has been served for the past 16 years. The fifth respondent is the President of the Panchayat. Due to the Panchayat Election motive, the fifth respondent's husband, who has no affairs with the Panchayat, has terminated the petitioner from service without any enquiry. Further, the allegation of the petitioner is that the fifth respondent's husband prevented the petitioner to perform his duty and the fifth respondent has orally informed to the petitioner that not to continue the service in the Panchayat. Therefore, the petitioner has submitted several representations to the respondents. But, there is no response. Hence, the petitioner has filed this Writ Petition.

3. Counter affidavit has been filed by the fourth respondent. In individual capacity, the fifth respondent was also shown as a party in the writ petition. The fourth respondent, denied the allegation of the petitioner and the averments in the writ petition. According to the fourth respondent, the petitioner was not promptly attended the duty. He has deputed his wife to carry out the said job. Further, according to the fourth respondent, earlier an enquiry was conducted against the petitioner by the Special Officer with regard to his improper attitude. Based on the various complaints from the public, the writ petitioner was not allowed to continue to work. A resolution was passed against the petitioner and he was ceased to work as Overhead Water Tank Operator. Therefore, this writ petition is liable to be dismissed.

4. I have anxiously considered the rival submissions and also perused the materials available on record.

5. Both the petitioner as well as the respondents have made allegations as against each others. According to the petitioner, he was appointed and served in the fourth respondent Panchayat for more than 16 years without any complaints. It is further contended by the learned counsel for the petitioner that if any such complaint has been received as against the petitioner, the respondents can

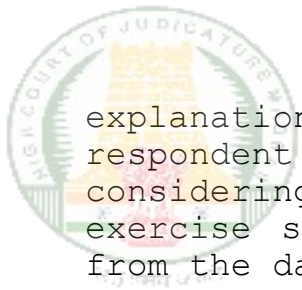


conduct enquiry and take appropriate decision after giving due opportunity to the petitioner. Without doing so, the fifth respondent orally informed to the petitioner that he should not operate the overhead tank, which is highhandedness, illegal and improper. In the counter affidavit, the fourth respondent has stated that the petitioner was not performed his duty as instructed by the Panchayat for supplying drinking water to the general public and based on the complaints only action being taken by the fourth and fifth respondents as against the petitioner.

6. On a perusal of the typed set of papers, it is seen that only the complaints made by the villagers and the resolution passed by the Village Panchayat as against the petitioner have been enclosed in the typed set of papers and no other material has been placed by the respondents panchayat, the complaints made by the some of the villagers addressed to the fourth respondent panchayat was enquired and the petitioner was granted an opportunity to give explanation for the said complaints. Further, in the counter affidavit, it is stated that in the earlier occasion an enquiry was conducted by the Special Officer. There is no material placed before this Court to show that the said enquiry has been conducted and an order has been passed as against the misconduct of the petitioner. *Prima facie* this Court does not find out any reason for restraining the petitioner from preventing to attend the work in the panchayat. Even though this may be a part time job, the said termination is nothing but, stigma as against the employee. Therefore, once the fourth respondent is decided to act upon based on the complaints made by the villagers, it is the duty of the fourth respondent to conduct an enquiry and grant an opportunity to the petitioner. Without doing so, orally instructed the petitioner not to continue the service, which is improper, illegal and against the principles of natural justice.

7. With regard to the complaints made by some of the villagers to the fourth respondent Panchayt is concerned, this Court is of the opinion that no date has been shown in the said complaints and only signatures have been obtained from the villagers. Therefore, the genuineness of the said complaints is also doubtful. However, this Court will not go into the veracity of the said complaints. These are all the disputed facts. If really, the petitioner is not performed his duty to the satisfaction of the villagers, the authority has every right to take action as against the petitioner in accordance with law. Apart from that the manner in which the respondents have taken action for removal of the petitioner also shows that the same is not in accordance with law. This Court feels that the said action of the respondents is *prima facie* improper.

8. Considering the facts and circumstances of the case, this Court directs the first respondent to enquire into the complaints preferred by the villagers, as alleged by the fourth respondent and grant an opportunity to the petitioner, for giving



explanation to the aforesaid complaints and thereafter, the first respondent shall take a final decision in accordance with law, by considering the petitioner's representation 16.03.2020. Such exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

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9. With the above directions, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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,
Collectorate Campus, Dindugul.
- 2.The Assistant Director,[Panchayats]
Office of the Assistant Director [Panchayats],
Dindigul.
- 3.The Block Development Officer,
Office of the Block Development Officer,
Vedasandur,
Vedasandur Taluk,
Dindigul District.
- 4.The President,
Kalvarpatti Panchayat,
Vedasandur Taluk, Dindigul District.

+1 CC to M/s.R.SENTHIL KUMAR, Advocate (SR-29049[F]
dated 14/09/2021)

+1 CC to M/s.SPL. GP (SR-29203[F] dated 15/09/2021)

W.P. (MD) No.14612 of 2021

13.09.2021

SJ(CO)

GC/JC(09.11.2021) 4P 7C

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