



WEB COPY

W.P.(MD)No.17194 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2021

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.17194 of 2021

and

W.M.P. (MD)No.14073 of 2021

C.V.Sanu

... Petitioner

vs.

1.The State of Tamil Nadu
represented by the Principal Secretary to the Government,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai - 600 009.

2.The Director of Town Panchayats,
Directorate of Town Panchayats,
Kuralagam, Chennai - 600 108.

3.The District Collector,
Kanyakumari District,
Nagercoil, Nagercoil Post.

4.The Assistant Director of Town Panchayats,
Collectorate Campus, Nagercoil, Kanyakumari District.

5.The Executive Officer,
Edaicode Town Panchayat,
Edaicode Post, Kanyakumari District.

6.Muthuraj,
Enquiry Officer,
Bill Collector of Edaicode Town Panchayat,
Edaicode Post, Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to proceedings of the fifth respondent in Na.Ka.No.297/2020/A1, dated 14.12.2020 and Na.Ka.No.279/2020/A1, dated 18.12.2020 and consequential enquiry report of the sixth respondent, dated 13.09.2021 and quash the same and to direct the fifth respondent to confer all the consequential benefits.

For Petitioner	:Mr.M.P.Hariprasad
For R1 to R4	:Mr.S.Shanmugavel Government Advocate
For R5	:Mr.D.Gandhiraj Government Advocate



O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned orders passed by the fifth respondent, dated 14.12.2020 and 18.12.2020 and the consequential enquiry report of the sixth respondent, dated 13.09.2021 and to direct the fifth respondent to confer all the consequential benefits to the petitioner.

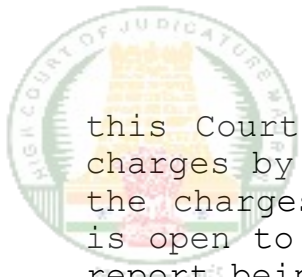
2.Heard Mr.M.P.Hariprasad, learned Counsel for the petitioner, Mr.S.Shanmugavel, learned Government Advocate appearing for the respondents 1 to 4 and Mr.D.Gandhiraj, learned Government Advocate appearing for the fifth respondent.

3.By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

4.The petitioner was working as a Water Tank Operator with the fifth respondent panchayat with effect from 12.06.2001. Though the petitioner was originally appointed on consolidated salary, later his service was regularised as full time permanent Water Tank Operator. By order, dated 14.12.2021, the petitioner was suspended from service in contemplation of disciplinary proceedings. The impugned charge memo, dated 18.12.2020 was issued to the petitioner framing seven charges against the petitioner. Since the petitioner submitted a reply denying the charges, the sixth respondent was appointed as Enquiry Officer and he has also submitted the enquiry report, dated 13.09.2021. Challenging the order of suspension dated 14.12.2020 and the charge memo, dated 18.12.2020 and the enquiry report, dated 13.09.2021, the present Writ Petition is filed.

5.The learned Counsel for the petitioner placing reliance on the service rules applicable to the petitioner, submitted that the fifth respondent has no power to issue an order of suspension beyond the period of three months. Though the suspension can be extended for another period of three years, it is further stated that the order of suspension, without specifying the period and without getting permission from the Block Development Officer, is *per se* illegal and contrary to the rules. The learned Counsel for the petitioner further submitted that the charges are vague, and that the whole charges had been stage managed by the Executive Officer out of personal ill-will and motive, as the petitioner had given a complaint against him earlier.

6.This Court in a Writ Petition may not go into the factual issues, which are not likely to be admitted by the respondents. Except the order of suspension, this Court normally will not interfere with a disciplinary proceeding, which is at the preliminary stage. Though one of the contentions raised by the petitioner in this Writ Petition is that the charges are very vague,



this Court is of the view that the petitioner, who understood the charges by giving proper reply, may not be prejudiced. Assuming that the charges are vague and the enquiry report is not acceptable, it is open to the petitioner to raise his objections before the enquiry report being acted upon.

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7. Having regard to the various circumstances and the facts narrated in the affidavit filed in support of this Writ Petition, this Court is not inclined to stall the enquiry proceedings initiated against the petitioner. However, the order of suspension, if it is against the statutory provisions, cannot stand. Therefore, this Writ Petition is disposed of in the following lines:

8.1. It is open to the petitioner to submit his further explanation to the enquiry report independently or in response to the second show cause notice. The Executive Officer, the fifth respondent herein, is directed to consider the further explanation offered by the petitioner before passing final order in the departmental proceedings after giving adequate opportunity to the petitioner to put forth his case. The petitioner also is permitted to submit a representation either for revocation of order of suspension, dated 14.12.2020 or review of the order. If the order of suspension is contrary to the rules, the fourth respondent shall revoke the same, by accepting the representation of the petitioner within a period of two weeks from date of receipt of copy of such representation from the petitioner. Regarding subsistence allowance, the learned Government Advocate relying upon the proceedings of the respondents, stated that the petitioner's subsistence allowance has been duly paid and that the respondents have the proof for payment of subsistence allowance. If that be so, the respondents can consider the representation of the petitioner accordingly and pass appropriate orders denying subsistence allowance for the period, during which the petitioner had already been paid.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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To

1.The Principal Secretary to the Government,
The State of Tamil Nadu
Municipal Administration and Water Supply Department,
Fort St.George, Chennai - 600 009.

2.The Director of Town Panchayats,
Directorate of Town Panchayats,
Kuralagam, Chennai - 600 108.

3.The District Collector,
Kanyakumari District,
Nagercoil, Nagercoil Post.

4.The Assistant Director of Town Panchayats,
Collectorate Campus, Nagercoil, Kanyakumari District.

+1 CC to M/s.D.GHANDIRAJ, Advocate (SR-30272[F] dated 24/09/2021)

+1 CC to M/s.SPL. GP (SR-30027[F] dated 23/09/2021)

W.P. (MD) No.17194 of 2021
22.09.2021

MGJ(06.10.2021) 4P 7C