



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :09.03.2021

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**
W.P. (MD)No.19360 of 2017

WEB COPY

D.Rajakili

.. Petitioner

Vs

1.The District Collector,
Collectorate Building,
Ramanathapuram District,
Ramanathapuram.

2.The Assistant Director(Panchayat),
Collectorate Building,
Ramanathapuram District,
Ramanathapuram.

3.The Block Development Officer,
Kamudhi Panchayat Union,
Ramanathapuram District.

4.The President,
Mushtakurichi Panchayat,
Kamudhi Panchayat Union,
Ramanathapuram District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to instruct the respondents 2 to 4 to reinstate the petitioner as Panchayat Assistant in Mushtakurichi Panchayat or in any other vacant place available in Kamudhi Panchayat Union with continuity of service with full backwages and all other consequential benefits including periodical increments based on the representation of the petitioner dated 19.03.2012.

For Petitioner : Mr.R.Alagumani

For Respondents 1 & 2 : Mr.A.Karthick
Government Advocate

For Respondent No.3 : S.Sades Kumar

O R D E R

The prayer sought for in the present writ petition is for a direction to the 1st respondent to instruct the respondents 2 to 4 to reinstate the petitioner as Panchayat Assistant in Mushtakurichi Panchayat or in any other vacant place available in Kamudhi Panchayat Union with continuity of service with full backwages and all other consequential benefits including periodical increments based on the representation of the petitioner dated 19.03.2012.

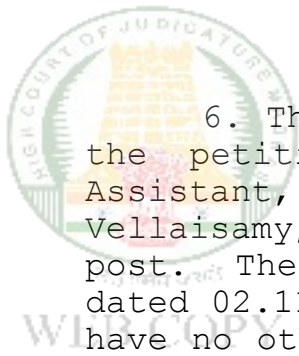


2. The case of the petitioner is that the petitioner was appointed as Panchayat Assistant Grade-II in Mushtakurichi Panchayat in the year 2007. The said appointment was approved by the resolution No.46 dated 16.04.2017 in terms of G.O.Ms.No.175 dated 05.12.2006 and further the same was approved by the appointment committee vide resolution No.1 dated 16.04.2007 in terms of G.O.Ms.No.168 dated 10.06.1999. Thereafter, the petitioner's name has been included under Group Insurance Scheme and a sum of Rs.30/- per month has been deducted from the petitioner's salary and increment was provided vide proceedings dated 01.10.2008 by the fourth respondent. Thereafter, the salary was enhanced from 12.08.2009 in terms of G.O.Ms.No.95 dated 27.03.2010. He has been working till March 2012 and thereafter, he was orally instructed by the 4th respondent not to come to office for few days. Thereafter, the petitioner approached the 4th respondent requesting to permit him to join duty, but there was no positive reply. Hence, the petitioner made a representation on 19.03.2012 on the grievance day and he made another representation in person on 07.10.2012 by way of registered post, however, no action was forthcoming. Hence, this writ petition.

3. The learned counsel for the petitioner would submit that the petitioner was appointed in the regular vacancy. Further, the said appointment was approved by the resolution No.46 dated 16.04.2007 and resolution No.1 dated 16.04.2007 in terms of the respective Government Orders. However, the petitioner's service was orally terminated without giving any instruction. Hence, this Court may pass necessary orders for reinstatement of the petitioner within a reasonable time as fixed by this Court.

4. Per contra, the learned Government Advocate filed a counter stating that the petitioner was appointed as a Village Assistant in the 4th respondent Panchayat on temporary basis in the year 2007. Even before the petitioner's appointment, one R.Vellaisamy was working as Village Assistant and he was suspended with effect from 25.10.2006. Subsequently, the said Vellaisamy was terminated from service vide resolution No.24. On that vacancy, the petitioner has been appointed vide resolution No.46, however the said Vellaisamy challenged the suspension order as well as the said resolutions in W.P.(MD)No.10296 of 2009 before this Court. This Court, by its order dated 02.11.2010, allowed the said writ petition on the ground of violation of principles of natural justice. In compliance to the above said order, the said Vellaisamy was reinstated into service and the petitioner was terminated. Hence, the grievance of the petitioner cannot be considered and accordingly, prayed for dismissal of the writ petition.

5. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents 1 & 2.



6. The fact in the present case is not in dispute. Admittedly, the petitioner was appointed in the vacancy post of Village Assistant, which was arise because of the suspension of one Vellaisamy, Village Assistant who was already working in the said post. The said suspension order was quashed by this Court by order dated 02.11.2010 in W.P.(MD)No.10296 of 2009. Hence, the respondents have no other option except to reinstate the said Vellaisamy in the said post, Hence, the grievance of the petitioner is misconceived.

7. In view of the above, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// 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

1.The District Collector,
Collectorate Building,
Ramanathapuram District,
Ramanathapuram.

2.The Assistant Director(Panchayat),
Collectorate Building,
Ramanathapuram District,
Ramanathapuram.

+1 CC to M/s.R.ALAGUMANI, Advocate (SR-9885[F] dated 10/03/2021)
+1 CC to M/s.SPL GP (SR-10144[F] dated 10/03/2021)
+1 CC to M/s.R.ALAGUMANI, Advocate (SR-10436[F] dated 11/03/2021)

**W.P. (MD) .No.19360 of2017
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RK(13.05.2021) 3P 6C