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W.P.No.19268 of 2012



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022

CORAM:

**THE HON'BLE MR.JUSTICE K. KUMARESH BABU**  
**W.P.No.19268 of 2012**

P.Chinnappan

... Petitioner

Vs

1.TheCommissioner,  
T.Palur Union,  
Perambalur.

2.The President,  
Karaikurichu Panchayat,  
T.Palur Union,  
Perambalur.

3.The District Collector,  
Ariyalur District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for records relating to the order bearing reference Letter Ref:284/2012/A3 dated 19.03.2012 passed by the third respondent herein and quash the same.

For Petitioner : Mr.R.Venkatesulu

For Respondents : Mr.P.S.Sivashanmuga Sundaram  
for Mr.Abishek Murthy



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Government Advocated for R2 & R3

**ORDER**

The above Writ Petition has been filed challenging the order of the 3<sup>rd</sup> respondent rejecting the petitioner's request to pay salary for the period from 01.03.2001 to 31.07.2003.

2.Heard Mr.R.Venkatesulu, learned counsel appearing for the petitioner and Mr.P.S.Sivashanmuga Sundaram, learned counsel appearing for the 2<sup>nd</sup> and 3<sup>rd</sup> respondent.

3.The learned counsel for the petitioner would submit that the petitioner has been working as a Tank Operator since 1994. He had further stated in his affidavit that he had been suspended from 01.02.2001 to 31.08.2003 by the Panchayat President, Karaikurichi Panchayat, due to enmity. But, however, he has been working as a Tank Operator and that the petitioner was deputed by the Panchayat Union to attend a training programme to upgrade his skill, conducted from 10.09.2001 to 12.09.2001 and a certificate dated 12.09.2001 has been issued by the Principal of



Rural Development Training Institute, Pattukottai.

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4.He further submitted that the petitioner, for non payment of his salary made several representations which were not considered, which forced him to file Writ Petition in W.P.No.14241 of 2002. In which this Court was pleased to direct the Assistant Director (Panchayat), Perambalur to pass appropriate orders on the representation of the petitioner, vide order dated 04.03.2003. In spite of several reminders, no orders were passed. However, by impugned order dated 19.03.2012, the 3<sup>rd</sup> respondent herein had rejected the request of the petitioner on the ground that the petitioner was placed under suspension and that even he was directed to join duty on 01.07.2003 to 31.07.2003, he has not joined duty.

5.Mr.R.Venkatesulu, learned counsel appearing for the petitioner would contend that the suspension of the petitioner is wholly imaginary to deny the benefits of the petitioner. He would also rely upon the service register of the petitioner maintained by the concerned Panchayat to substantiate that there was no order of suspension that was passed against the petitioner. Therefore, he further prayed this Court to set aside the



order, directing the respondents to pay him the salary from 01.03.2001 to 31.07.2003.

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6.Countering his arguments, Mr.P.S.Sivashanmuga Sundaram, learned counsel for the 2<sup>nd</sup> and 3<sup>rd</sup> respondents would contend that the petitioner herein was placed under suspension. Prior to his suspension, two show cause notices were issued to him calling upon him to submit his explanation. The order of suspension was passed as he has not submitted his explanation. He would further contend that there is no specific direction of this Court in the earlier Writ Petition directing payment of salary for the period from 01.03.2001 to 31.07.2003.

7.He would vehemently contend that the petitioner has not challenged the order of suspension and therefore, he would not be entitled to any salary during the said period as there was no rules compelling this respondent to pay him the salary for the period of suspension.

8.I have considered the arguments made by the learned counsels appearing on either side and perused the materials available on record before this Court.



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9.Eventhough, there is a claim of the respondent that the petitioner was placed under suspension from 01.02.2001 to 30.06.2003. The service register of the petitioner does not reflect any such order that has been passed against him. Eventhough he had admitted that he has placed under suspension, he has asserted that he has been continuing to work and also sent for a training for three days, which dates falls during the period of alleged suspension.

10.In the counter affidavit filed by the Block Development Officer/ 2<sup>nd</sup> respondent the order of suspension passed was sent to the petitioner on 28.02.2001, sent almost a month after the order of suspension was passed. Even the same has not been produced before this Court to substantiate the same. It is also not explained as to how, he was nominated for training during the period of suspension. Which would only presuppose that there is no order of suspension passed against the petitioner.

11.In view of the same, the petitioner is entitled for the salary for the period between 01.02.2001 to 30.06.2003. His request for salary from



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01.07.2003 to 31.07.2003 is rejected, as admittedly, he has not joined duty in spite of he being asked to join.

12.In light of the above, this Writ Petition is allowed, directing the respondent to pay the salary to the petitioner for the period 01.02.2001 to 30.06.2003. However, there shall be no order as to costs.

31.10.2022

*Index: Yes/no  
Speaking/non-speaking  
gba*

To

- 1.TheCommissioner,  
T.Palur Union,  
Perambalur.
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**K. KUMARESH BABU, J.**

*gba*

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