



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.28534 of 2012  
in  
WMP.No.35363 of 2016

M. Vadivel

... Petitioner

Vs.

1. The District Collector,  
Villupuram District
2. The Block Development Officer,  
Panchyat Union. Gingee,  
Villupuram District.
3. The President,  
Thandavasamuthiram Panchayat,  
Villupuram District.
4. M. Murugan  
( Impleaded as per open Court Order  
dated 01.03.2013) in MP.1/13

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of the first respondent in Na.ka.Bc.1/ 158 / 2012 dated 28.09.2012, quash the same and consequently direct the first respondent to reinstate the petitioner herein as Panchayat Writer.

|                            |                                                |
|----------------------------|------------------------------------------------|
| For Petitioner             | : Mr.A. Vijaya Sankar for<br>Mr. D. Gopinathan |
| For Respondent-1           | : Mrs. R.L. Karthika<br>( Government Pleader)  |
| For Respondents 2<br>and 3 | : Mr. P.S. Sivashanmugamsundaram               |

ORDER

The writ petition is filed challenging the order of the



first respondent dated 28.09.2012 which was preferred by the petitioner challenging the order dated 09.8.1999 by which the petitioner were dismissed from service w.e.f 26.04.1995. The grievance of the petitioner was that the order of dismissal dated 09.08.1999 was made without complying with the procedure and in gross violation of principles of natural justice, inasmuch as the petitioner was not served with any charge memo nor any opportunity was granted to the petitioner to offer his explanation and the order of dismissal came to be passed straight away on 09.08.1999. However, the above order has been confirmed by the appellate authority overlooking the above infirmity which is submitted by the counsel for the petitioner to be fatal.

2. The petitioner had filed a writ petition before this Court in W.P.No.16720 of 2000 challenging the dismissal from service w.e.f 26.04.1999. This Court was pleased to direct the appellate authority to dispose of the appeal filed by the petitioner within a period of 4 months from the date of receipt of a copy of that order. The appellate authority on finding that criminal proceedings were passed against the petitioner passed an interim order stating that the petitioner be kept under suspension and a final decision to be taken depending on the outcome of the above criminal proceedings. The criminal proceedings have ended in acquittal and that was taken note of by the first respondent. The first respondent thereafter proceeded to pass the impugned order stating that the power to appoint Panchayat Assistant post would vest with the Panchayat President and that one Murugan had also been appointed in the place of the petitioner into the post of Panchayat Assistant and thus the petitioner's request for appointment as Panchayat Assistant cannot be accepted.

3. It is submitted by the learned counsel for the petitioner Mr.Murugan has passed away and in any view the appellate authority ought to have seen that the order of dismissal was made without complying with the procedures and in gross violation of principles of natural justice.

4. I agree that the above aspect has not been dealt with by the appellate authority. In view of the same, I am of the view that the appellate authority shall hear the matter afresh. Liberty is granted to the petitioner to raise all grounds that may be available to him. The appellate authority would consider the same in particular the plea that the order is made in violation of principles of natural justice and pass orders after giving reasonable opportunity to the petitioner. The above exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.



With the above observation this writ petition stands disposed of. No costs. Consequently connected miscellaneous petition is closed.

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Sd/-  
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

smn

To

1. The District Collector,  
Villupuram District
2. The Block Development Officer,  
Panchyat Union. Gingee,  
Villupuram District.
3. The President,  
Thandavasamuthiram Panchayat,  
Villupuram District.

+1cc to Mr.G.Mahesh Kumar, Advocate, S.R.No.24954  
+1cc to the Government Pleader, S.R.No.25288

W.P. No.28534 of 2012

BR(CO)  
CT 18/04/2022