



WEB COPY

W.P.No. 41413 of 2016



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 41413 of 2016

and

W.M.P.Nos. 35384 & 35385 of 2016

R. Mani

... Petitioner

Vs.

1. The Collector, Villupuram,
Villupuram District.

2. The Block Development Officer (Block Panchayats)
Kanai, Villupuram District.

3. The Commissioner,
Kanai Panchayat Union, Villupuram District.

... Respondents

Prayer: Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned charge memo issued by the second respondent in Na.Ka.No.A6/504/2014 dated 29.09.2016 and the order of suspension issued by the third respondent in Na.Ka.No.A6/504/2014 dated 23.06.2016 and quash the said orders and direct the respondents to reinstate the petitioner in service with all attendant benefits.

For Petitioner

: Mr. A. Maheshnath

for Mr. M. Amarnath

For Respondents

: Mrs. E. Indhumathi

Government Advocate

for R1 to R3



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ORDER

The order of suspension dated 23.06.2016 and the charge memo issued by the second respondent in Memo dated 29.09.2016 are under challenge in the present writ petition.

2. The writ petitioner was placed under suspension on the ground that certain irregularities were found while performing his duties. The petitioner was placed under suspension, consequent to the inspection conducted by the higher authorities and charge memo was issued and petitioner submitted his explanation. Thereafter, the disciplinary proceedings were not continued and further the writ petitioner filed the present writ petition in the year 2016.

3. On account of the pendency of the writ petition, the authorities were not in a position to conclude the departmental disciplinary proceedings. A criminal case was also registered against the petitioner, which is pending. That being the case, the question arises whether simultaneous proceedings can be conducted in respect of the criminal case and the departmental disciplinary proceedings. This court has ruled that there is no bar for the departmental proceedings to continue during the pendency of a criminal case



before the competent court of law. Pendency of a criminal case is not a bar and the authorities based on the records available are at liberty to continue the departmental disciplinary proceedings and pass final orders. Based on the judgment of this Court, the Government also issued a Government Order in G.O.Ms.No.81, Human Resource Management (N) Department dated 04.08.2022 and the guidelines issued by the Government, pursuant to the orders of this Court are to be followed scrupulously by the competent authorities, while undergoing the process of disciplinary proceedings against the writ petitioner. This being the factum, the respondents are at liberty to continue the departmental disciplinary proceedings, based on the guidelines issued by the Government in the G.O stated above and conclude the same as expeditiously as possible.

4. The learned counsel for the petitioner made a submission that the subsistence allowance due to the petitioner is yet to be disbursed. An employee, who is placed under suspension is entitled for the subsistence allowance. If any such subsistence allowance is pending, the authorities competent are bound to settle the same, without causing any undue delay.

5. The learned Government Advocate, appearing on behalf of the



respondents, brought to the notice of this Court that the petitioner was appointed as temporary noon meal organizer on consolidated pay salary.

Therefore, he is not a permanent employee of the department. Even in the case of temporary consolidated pay salary, the employee is placed under suspension and not allowed to take any further employment from any other employer, then subsistence allowance is to be paid. In respect of such temporary consolidated pay employees, the authorities competent by following the procedures may discharge the services. However, in the event of initiation of departmental disciplinary proceedings, after placing the employee under suspension, subsistence allowance of 50 % of the pay is to be paid. The writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

04.11.2022

mrn

Index : Yes / No

Speaking order / Non-Speaking order

To

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Villupuram District.

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S.M.SUBRAMANIAM, J.



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