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W.A.Nos.2580 & 2573 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2022

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The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **RMT.TEEKAA RAMAN**

W.A.Nos.2580 & 2573 of 2022
C.M.P.Nos.20368 & 20318 of 2022

W.A.No.2580 of 2022

The President,
Veeraragavapuram Panchayat,
Kilampakkam Post,
Thiruvallur Taluk,
Thiruvallur District – 602 025.

.. Appellant

Vs

1.D.Vinothkumar

2.The District Collector,
Thiruvallur District,
Thiruvallur – 602 025.

.. Respondents

W.A.No.2573 of 2022

The President,
Veeraragavapuram Panchayat,
Kilampakkam Post,
Thiruvallur Taluk,
Thiruvallur District – 602 025.

.. Appellant



W.A.Nos.2580 & 2573 of 2022

Vs

1.P.Thiruveedhi

2.The District Collector,
Thiruvallur District,
Thiruvallur – 602 025.

.. Respondents

Prayer in W.A.No.2580 of 2022: Appeal filed under Clause 15 of Letters Patent against the order dated 12.07.2022 passed in W.P.No.14719 of 2022 on the file of this Court.

Prayer in W.A.No.2573 of 2022: Appeal filed under Clause 15 of Letters Patent against the order dated 12.07.2022 passed in W.P.No.14721 of 2022 on the file of this Court.

For Appellant : Dr.Francis Xavier Arulraj
(in both appeals) Senior Advocate
for Mr.A.Maheshnath

For R1 : Mr.G.Sudangan
(in both appeals)



W.A.Nos.2580 & 2573 of 2022

COMMON JUDGMENT
(Delivered by *P.N.PRAKASH, J.*)

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These writ appeals have been filed to set aside the orders dated 12.07.2022 passed in W.P.Nos.14719 & 14721 of 2022, respectively.

2. The minimum facts that are required for deciding these writ appeals are as under:

2.1 Vinothkumar (petitioner in W.P.No.14719 of 2022), Thiruveedhi (petitioner in W.P.No.14721 of 2022) and Dhakshinamoorthy were working as Overhead Tank Operators in Veeraragavapuram Panchayat Union in Thiruvallur District and Banupriya is the President of the said Panchayat.

2.2 Alleging that Vinothkumar and Thiruveedhi were on unauthorised absence for a period of eight months, they were removed from service, aggrieved by which, they preferred individual appeals under Section 202 of the Tamil Nadu Panchayats Act, 1994, before the District Collector, Thiruvallur District and the same are pending.



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2.3 Vinothkumar filed W.P.No.14719 of 2022 and Thiruveedhi filed W.P.No.14721 of 2022 for a mandamus to the District Collector to dispose of their appeals. In the writ petitions, they alleged that they are being victimized by the Panchayat President and her husband Murugan and that they had not gone on unauthorised absence. They also asserted that there was no interruption of water supply during the said period.

2.4 When these writ petitions came up for hearing before a learned Single Judge, an interim direction was issued to the District Collector, Thiruvallur, to file a report as to whether there was any interruption in water supply during the relevant period.

2.5 In compliance with the directions of this Court, the District Collector, Thiruvallur, filed an enquiry report stating that there was uninterrupted water supply during the relevant period of time, but, since the attendance register was with the Panchayat President, he was not able to ascertain whether Vinothkumar and Thiruveedhi were on unauthorised absence.



WEB COPY 2.6 In paragraph no.10 of the report, the District Collector, Thiruvallur, has stated as follows:

“10. It is submitted that the appointing authority for the above post is the Panchayat and Panchayat is well within its rights to remove the employee. However, in this case the employee was removed on charge of dereliction from duty. However, on field enquiry it is ascertained that water supply was not disturbed in this period as mentioned and no such dereliction of duty is proved. Further, it is submitted that the removal of the petitioner from Over Head Tank Operator post is not in order.”

2.7 Based on the report of the District Collector, Thiruvallur, the learned Single Judge has passed final orders in both the writ petitions individually on 12.07.2022. In paragraph no.10 of the said orders, which are identical in both the cases, reads as under:

“10. In view of the above, this Court, accepts the report of the first respondent and passes the following order:-

i) directs the first respondent to consider the appeal of



the petitioner dated 14.12.2021 and pass appropriate orders to reinstate the petitioner forthwith as Over Head Tank Operator and also issue suitable directions to the Executive Officer of the respondent Panchayat, for payment of salary to the petitioner for the aforesaid non working period, due to the illegal termination order passed by the second respondent.

ii) the first respondent shall take appropriate action against the second respondent as well as the said Murugan for the aforesaid allegations of the petitioner, in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

11. With the above observations and directions, the Writ Petition is disposed of. No costs."

3. Aggrieved by the above order, the Panchayat President has preferred the present writ appeals.

4. Both sides disputed the allegations against each other and it was stated on behalf of the Panchayat President that no opportunity was given to her to file counter in the writ petitions and the learned Single Judge has passed the final orders based on the enquiry report of the District



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Collector, Thiruvallur. The learned Senior Counsel appearing for the Panchayat President also stated that without hearing the Panchayat President and her husband Murugan, there should not have been any directions to the District Collector, Thiruvallur, to take action against them.

5. This Court gave its anxious consideration to the rival submissions.

6. It is true that the District Collector is an appellate authority and he has not passed any formal orders disposing of the appeals preferred by Vinothkumar and Thiruveedhi. There appears to be some force in the submission of the learned Senior Counsel appearing for the Panchayat President that without giving an opportunity to the Panchayat President and her husband, they cannot be condemned, especially, in the light of the fact that Murugan is not a party in the writ petitions.

7. In such view of the matter, we are inclined to issue the following directions:



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- i. the District Collector, Thiruvallur, shall dispose of the appeals dated 14.12.2021 filed by Vinothkumar and Thiruveedhi within a period of four weeks from the date of receipt of a copy of this order;
- ii. if, during the course of enquiry, the District Collector, Thiruvallur, finds that there are incriminating materials against the Panchayat President and her husband, separate action may be initiated against them in accordance with law.

With the above observations and directions, these writ appeals stands allowed and the orders dated 12.07.2022 passed in W.P.Nos.14719 & 14721 of 2022, respectively, are set aside. Connected C.M.Ps. are closed. No costs.

(P.N.P., J.) (TKRJ)
28.11.2022

Index: Yes/No
nsd



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WEB COPY To

The District Collector,
Thiruvallur District,
Thiruvallur – 602 025.



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W.A.Nos.2580 & 2573 of 2022

P.N.PRAKASH, J.
and
RMT.TEEKAA RAMAN, J.

nsd

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