



W.P.(MD) No.10862 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.10862 of 2022
and W.M.P.(MD).Nos.7830 and 7831 of 2022

M.Balasubramanian

... Petitioner

Vs.

**1.The Personal Assistant (Development)
to District Collector,
Tirunelveli District,
Tirunelveli.**

**2.The Block Development Officer (Village Panchayats),
Radhapuram Panchayat Union,
Radhapuram Post,
Tirunelveli District.**

**3.The Block Development Officer (Village Panchayats),
Manoor Panchayat Union,
Manoor Post,
Tirunelveli District.**

**4.The Special Officer /
Block Development Officer (Village Panchayats),
Kasthurirengapuram Village Panchayat,
Radhapuram Panchayat Union,
Radhapuram Post,
Tirunelveli District.**

... Respondents



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PRAYER: Writ petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records in pursuant to the impugned suspension order, passed by the 4th respondent in her proceedings Na.Ka.No.Aa3/2472/2021, dated 01.10.2021 and quash the same and consequently, direct the respondents reinstate the petitioner in service by treating the period of suspension as duty period and to grant all attendant and monetary benefits.

For Petitioner : Mr.M.Saravanakumar

For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader

ORDER

Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

2.In contemplation of disciplinary action against the petitioner, the fourth respondent herein had suspended the petitioner from service through the impugned order, dated 01.10.2021.



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Choudhary v. Union of India, reported in (2015) 7 SCC 291, has held that the currency of a suspension order should not extend beyond three months, if within these period the memorandum of charges is not served on the delinquent officer. It is further held therein that if the memorandum of charges is served, a reasoned order must be passed for the extension of the suspension. In the instant case, after the suspension order was passed on 01.10.2021, the charges came to be framed on 11.10.2021, within a period of three months.

4. However, on expiry of the period of three months, the fourth respondent herein has not passed any further reasoned order for keeping the petitioner under suspension, which is against the dictum laid down in *Ajay Kumar Choudhary's case* (Supra). Hence, I am of the view that the suspension order can be revoked on the ground of prolonged suspension.

5. At this juncture, the learned Special Government Pleader, placed reliance on the averments in the counter affidavit and submitted that prior to the suspension order, the petitioner was transferred from Kasthuriengapuram



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6. It is also brought to the notice of this Court that during the period of suspension the petitioner herein was not paid the subsistence allowance. It is a mandatory requirement that when any Government employee is placed under suspension, he would be entitled for payment of subsistence allowance. Since the fourth respondent herein has violated such a statutory requirement, the petitioner would be entitled for payment of interest on the arrears of the subsistence allowance.

7. In the light of the above findings, the impugned order passed by the fourth respondent in Na.Ka.No.Aa3/2472/2021, dated 01.10.2021, is hereby quashed. Consequently, there shall be a direction to the fourth respondent



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herein to pass appropriate orders reinstating the petitioner back into service and also pay the entire arrears of subsistence allowance, for the period of suspension, together with interest at the rate of 6% per annum. Such orders of reinstatement shall be passed immediately on the same day of receipt of this order and the arrears of the subsistence allowance, together with interest, shall be disbursed to the petitioner, atleast within a period of one week from the date of receipt of a copy of this order.

8. Accordingly, this writ petition stands allowed. No costs.
Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Speaking Order/ Non Speaking Order
TM

To

- 1.The Personal Assistant (Development)
to District Collector, Tirunelveli District,
Tirunelveli.
- 2.The Block Development Officer (Village Panchayats),
Radhapuram Panchayat Union,
Radhapuram Post, Tirunelveli District.

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- 3.The Block Development Officer (Village Panchayats),
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- 4.The Special Officer /
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M.S.RAMESH,J.

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