



W.P.(MD).No.14890 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.14890 of 2018

and

W.M.P.(MD).Nos.13342 and 13343 of 2018

C.Xavier Raj

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Personal Assistant (Development),
To District Collector,
Kanyakumari District,
Nagercoil.

3.The Block Development Officer (Panchayats)
Munchirai Panchayat Union,
Puthukadai Post,
Kanyakumari District.

4.The President,
Thoothoor Village Panchayat,
Munchirai Panchayat Union,
Puthukadai Post,
Kanyakumari District.

... Respondents

(R-4 impleaded vide Court Order dated 22.08.2022 in W.M.P.(MD).No.13094 of 2022 in W.P.(MD).No.14890 of 2018).



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the third respondent in his proceeding A9/5756/2013 dated 09.04.2014 and quash the same and consequently direct the Respondents to permit the Petitioner to join as Panchayat Secretary in Thoothoor Village Panchayat, Munchirai Panchayat Union, Kanyakumari District and to grant arrears of salary and all other attendant and monetary benefits within a stipulated time may be fixed by this Court.

For Petitioner : Mr. M.Saravana Kumar

For R-1 to R-3 : Mr.N.Muthu Vijayan,
Special Government Pleader.

For R-4 : Mr.S.C.Herold Singh

ORDER

This Writ Petition is filed challenging the impugned suspension order dated 09.04.2014 and consequently direct the respondents to permit the petitioner to join as Panchayat Secretary.

2. The allegations against the petitioner is that he has misused the signature of Assistant Director and affixed the same and approved a plan. He has misappropriated the Panchayat funds to the tune of Rs.65,178/-. Hence a



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criminal case was also initiated in Crime No.224 of 2013 for the alleged offences under Sections 409, 420, 465 and 467 of I.P.C against which the petitioner filed Anticipatory Bail Application before this Court and he was enlarged on bail on 08.10.2013. Based on the allegations, the petitioner was suspended from service on 03.10.2013.

3. The learned counsel appearing for the respondents 1 to 3 submitted that the charge sheet has been filed in Criminal case and it is ready for trial. At this stage it is not feasible to revoke the suspension, even though it is prolonged suspension. The Hon'ble Supreme Court in the case of *Ajay Kumar Choudhary Vs. Union of India and others reported in (2015 7 SCC 291)* has held that the revocation of suspension is not automatic, it should be based on the facts and circumstances of each case.

4. However in the present case, the charge sheet has been filed and the criminal case is ready for trial. Thereafter, the second respondent has revoked the suspension order on 03.03.2014. However, the President, the impleaded respondent has filed a Writ Petition in W.P.(MD).No.4350 of 2014 challenging the revocation of suspension order. Initially, this Court has granted an interim stay vide order dated 17.03.2014. Thereafter, the aforesaid Writ Petition was



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taken up for final hearing and the said Writ Petition was disposed of on 09.06.2014 directing the respondents to continue the disciplinary proceedings.

Therefore, the interim stay granted against the revocation of suspension also goes. In such circumstances, the suspension order which is challenged in this Writ Petition ought to be considered by the authorities. Since earlier the respondent had revoked the suspension order, this Court is inclined to allow the writ petition.

5. Therefore, the suspension order is set aside and Writ Petition is allowed. The respondents are directed to reinstate the petitioner into service within a period of two (2) weeks from the date of receipt of a copy of this order.

6. Since in the criminal case the charge sheet has been filed, the respondents are at liberty to initiate disciplinary proceedings by taking the records / documents from the criminal case and independently complete the disciplinary proceedings.



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7. With the above observation, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions stand closed.

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Index : Yes / No
Internet : Yes/ No
Nsr

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S.SRIMATHY, J.

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