



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.5081 of 2016

and

W.M.P. (MD)Nos.4517 to 4519 of 2016

P.Kandasamy

... Petitioner

vs

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Personal Assistant,
(Panchayat Raj Department)
Office of the District Collector,
Collectorate Buildings,
Tirunelveli, Tirunelveli District.

3. The Block Development Officer,
(Village Panchayat)
Sankarankovil,
Tirunelveli District.

4. The Block Development Officer,
(Village Panchayat)
Shenkottai,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the first respondent's proceedings in Na.Ka.No.512/15887/2014 dated 27.09.2014 and quash the same and consequently direct the first respondent to reinstate the petitioner with all other monetary benefits and continuity of service.

For Petitioner : Mr.V.Karthikeyan

For Respondents : Mr.P.Thambidurai
Government Advocate (Civil side)

**O R D E R**

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order dated 27.09.2014 and consequently direct the first respondent to reinstate the petitioner with all other monetary benefits and continuity of service.

2. The petitioner entered into the Panchayat Service as Panchayat Clerk (now re-designated as Panchayat Secretary) on 01.10.1998. The contention of the petitioner is that he was transferred to Perumalpatti Union, Tirunelveli District on 04.12.2008. When the new President took over the charge she did not want the petitioner to serve in the said post. Therefore, based on the representation of the President with false allegation against the petitioner, the first respondent has issued a show cause notice. On 21.04.2014, the first respondent directed the third respondent to enquire the matter and to submit a report. The third respondent without conducting any enquiry had sent a report to the first respondent, dated 31.07.2014 which was approved on 07.08.2014. Based on that report, the first respondent has issued an order relieving the petitioner from the said post.

3. The contention of the petitioner is that before conducting any enquiry, show cause notice or charge memo, the petitioner was simply dismissed from service. The third respondent, vide date, 01.10.2014 forwarded the said order to the petitioner and thereafter, the petitioner was kept out of service from 01.10.2014. The third respondent had submitted a report to the first respondent after recording the statements from the petitioner along with the complaints given by the President. In the report submitted by the third respondent on 19.02.2015 the statement containing of allegations and the reply submitted by the petitioner and the remarks of the third respondent are forwarded to the first respondent. The petitioner submitted that he has not committed any misappropriation. The petitioner submitted a representation on 02.03.2015 requesting to revoke the relieving order. Thereafter, the first respondent, vide proceedings, dated 16.03.2015 had appointed the fourth respondent as an enquiry officer and submitted the enquiry report. Based on the enquiry report, further proceedings will be initiated. No enquiry has been conducted till date. Again the petitioner submitted a representation dated 07.09.2015 and no action has been taken by the first respondent. Thereafter, the petitioner was summoned to attend the enquiry before the fourth respondent and the petitioner was relieved from service on 27.09.2014. The first respondent appointed the fourth respondent as an enquiry officer on 16.03.2015 and the same was an eyewash. The fourth respondent did not enquire the petitioner or furnish copy



of the records based on which the petitioner was relieved from service. The enquiry officer has only examined the records and submitted the reports. The petitioner's wife submitted a representation to the first respondent on 06.11.2015 and the first respondent has passed the impugned order rejecting the request for revoking the relieving order.

4. The first respondent has filed a counter affidavit stating that the petitioner is facing severe charges that he has collected amounts illegally from the MGNREGS workers for opening Bank account and also misused the cheques issued under the schemes like IAY, CMSPGHS and IHL beneficiaries to that effect criminal complaints were lodged against the petitioner and the same is pending before the crime branch. Therefore, the petitioner could not be reinstated into service since the charges are very serious and prayed to dismiss the writ petition.

5. Heard Mr.V.Perumal, learned Counsel appearing for the petitioner and Mr.P.Thambidurai, learned Government Advocate appearing for the respondents.

6. It is seen from the records that the respondents have conducted the preliminary enquiry and based on the report the petitioner was dismissed from service. According to the petitioner, the respondents have not issued any charge memo or any show cause notice and also there was no enquiry at all. The enquiry conducted by the fourth respondent is only a preliminary enquiry. Based on the enquiry no show cause notice was issued calling the petitioner to submit his explanation. Since no sufficient opportunity was given to the petitioner, he has come up with this writ petition. When the writ petition was taken up for hearing, the learned Counsel appearing for the petitioner submitted that the petitioner was reinstated into service on 21.03.2017 and the punishment imposed on the petitioner is that the petitioner was placed in the time scale of pay in the bottom of the scale pay. It is seen from the records that the petitioner was not kept under suspension. Now the punishment has been modified by the respondents.

7. Therefore, this Court is of the considered opinion that the petitioner was dismissed from service on 27.09.2014 and the respondents themselves modified the punishment. Therefore, this Court is confirming the modified punishment and the respondents are directed to count the said period for continuity of service where the petitioner was dismissed on 27.09.2014 and reinstated in service on 21.03.2017. The petitioner is not entitled to any monetary benefits for the period from 2014 to 2017 and the petitioner shall be considered for future promotions also.



8. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

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+1 CC to M/s.V. KARTHIKEYAN, Advocate (SR-21423[F] dated 26/04/2022
+1 CC to M/s.SPL.GP. (SR-21299[F] dated 26/04/2022)

Order made in
W.P. (MD)No.5081 of 2016
25.04.2022

svs (CO)

TR(10.06.2022) 4P 7C