



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P(MD).No.27323 of 2019

and

W.M.P(MD)Nos.23593 and 23594 of 2019

M.Manthakalai

... Petitioner

Vs.

1.The District Collector,
Collectorate Building,
Madurai District.

2.The Assistant Director of Panchayat,
District Collectorate Campus,
Madurai-625 020.

3.The Block Development Officer,
Office of the Block Development Officer,
Melur Panchayat Union,
Madurai.

4.The Inspector of Police,
Keezhavalavu Police Station,
Madurai District.

. ... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Na.Ka.No.918/2018/Thi.1 dated 10.06.2019 on the file of the 3rd respondent and quash the same and further directing the 3rd respondent to reinstate the petitioner in service.

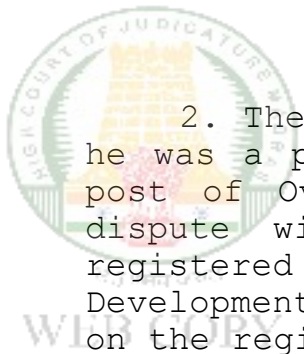
For Petitioners : Mr.V.Muthu Samudeeswaran

For Respondents : Mr.A.K.Manickam

Special Government Pleader

ORDER

The impugned order of suspension states that the petitioner, who was working as Over Head Tank Operator, has involved in a criminal offence and a criminal case was registered under Sections 448, 294(b), 323, 427 and 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.



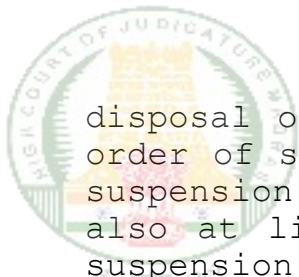
2. The petitioner was working as an Over Head Tank Operator and he was a panchayat servant and his service was regularized in the post of Over Head Tank Operator. On account of certain private dispute with the neighbours, a falls criminal case has been registered against the petitioner. The third respondent, Block Development Officer, issued the impugned order of suspension, based on the registration of a criminal case. No doubt, the petitioner was arrested and subsequently released on bail.

3. The learned counsel for the petitioner made a submission that the authority competent, who imposed the punishment on the Over Head Tank Operator, is not the Block Development Officer and therefore, the order of impugned is without jurisdiction and the same is liable to be set aside. The learned counsel for the petitioner further submitted that the allegations are relatable to certain private disputes with the neighbours and therefore, suspension is unnecessary.

4. The learned Special Government Pleader appearing on behalf of the respondents raised an objection stating that as per Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, the Block Development Officer is the competent to issue the order of suspension.

5. However, this Court is of the opinion that the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules are not applicable in respect of the Over Head Tank Operator working in the Panchayat. As far as the Over Head Tank Operators are concerned, it is the basic service and the Block Development Officer being the higher authority. As far as the Panchayat is concerned, the Block Development Officer is the competent to issue an order of suspension and initiation of disciplinary proceedings. Therefore, the contention of the petitioner that the Block Development Officer has no jurisdiction is incorrect. The immediate superior officer is the competent to initiate the disciplinary proceedings and placed the employee under suspension. After conducting the enquiry, the reports are to be placed before the competent authority for imposing punishment.

5. Suspension is not a punishment. Suspension is issued on initiation of disciplinary proceedings. The immediate superior officer is the competent to initiate the disciplinary proceedings and placed the employee under suspension. However, in the present case, the petitioner is under suspension for about three years. No doubt, a criminal case was registered in respect of certain personal dispute with the neighbours and the order of suspension is to be reviewed. If the records or evidence are available with the department then, they are at liberty to proceed with the departmental disciplinary proceedings and conclude the same, based on the evidence available. However, if an administrative decision is



disposal of the criminal case, then the authority shall review the order of suspension and consider whether any further continuance of suspension is required or not. In this regard, the petitioner is also at liberty to submit the application to review the order of suspension as expeditiously as possible.

6. With these observations, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

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Madurai District.

+1 CC to M/s.S.V.MUTHU SAMUNDEESWARAN, Advocate (SR-6416[F] dated 16/02/2022)

+1 CC to M/s.SPL GP (SR-6221[F] dated 15/02/2022)

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RD(03.03.2022) 3P 7C