



W.P.No.2288 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.2288 of 2023

and

W.M.P.Nos.2359, 2360 & 2362 of 2023

A.Victor Raj

... Petitioner

Vs.

1.The District Collector,
Nagapattinam District,
Nagapattinam.

2.The Personal Assistant to the District Collector,
Nagapattinam District,
Nagapattinam.

3.K.Chittibabu,
Jeep Driver,
District Collectorate (Development Division),
Nagapattinam District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent vide his proceedings dated 07.12.2022, in reference Na.Ka.72/2022/U.va.2 and quash the same and to consequently direct the respondents 1 and 2 to assign duties to the petitioner.



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For Petitioner : Mr.Swarnam J.Rajagopalan
For R1 & R2 : Mr.Stalin Abhimanyu
Additional Government Pleader
For R3 : No appearance

ORDER

This writ petition has been filed challenging the impugned order dated 07.12.2022 issued by the second respondent relieving the petitioner from service.

2.When the writ petition came up for admission on 31.01.2023, this Court passed the following order:

“Mr.Stalin Abhimanyu, learned Additional Government Pleader, takes notice for respondents 1 and 2.

2. The subject matter of challenge in this writ petition pertains to a relieving order dated 07.12.2022 passed by the second respondent. The petitioner, who has been working as a driver from the year 1998 onwards, has been relieved in the year 2022 without assigning any posting in any alternative place. As a result, the petitioner is out of service from December'2022 onwards and he has not been paid any salary. It is true that a charge memo has been



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issued against the petitioner on 02.01.2023 and the petitioner has also given his reply for the same.

3. Learned counsel for the petitioner submitted that the petitioner will face the charges independently and for the present, the petitioner is aggrieved by the relieving order passed without assigning any reason and virtually throwing out the petitioner from employment.

4. Learned Additional Government Pleader seeks time to get instructions.

Post this case at the end of the motion list on 08.02.2023.”

3.This Court directed the learned Additional Government Pleader, who took notice on behalf of the respondents 1 and 2 to take instructions as to how the petitioner was straightaway relieved from service when the petitioner is working as a driver from the year 1998 onwards.

4.When the matter was taken up for hearing today, the learned Additional Government Pleader filed typed set of papers and a copy of the same was also furnished to the learned counsel for the petitioner.

5.On carefully going through the documents that were produced



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before this Court, it is seen that on 07.12.2022, a transfer order has been passed by the second respondent transferring one K.Chittibabu from Kilvelur to Nagapattinam in the place of the petitioner. On the same day, relieving order dated 07.12.2022 was also passed and on carefully going through this order, it gives an impression as if the petitioner has been relieved from service. This Court got such an impression, since the relieving order did not speak about providing the petitioner with any alternative post.

6.The charge memo dated 02.01.2023 was issued to the petitioner and totally, seven charges have been framed against the petitioner and the petitioner was directed to give his reply. Accordingly, the petitioner has given a reply to the charge memo through his letter dated 18.01.2023.

7.Considering the nature of allegations made against the petitioner in the charge memo, a suspension order came to be passed by the second respondent on 27.01.2023. According to the learned Additional Government Pleader, the petitioner refused to receive the suspension order and hence, the same was affixed in the residence of the petitioner



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on 31.01.2023.

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8.In the light of the above clarification given by the learned Additional Government Pleader, it becomes clear that the petitioner has not been relieved from service. The relieving order dated 07.12.2022 has been badly worded and the same can be disregarded. The petitioner continues to be in service. Further, by virtue of the disciplinary proceedings initiated against the petitioner, he has been placed under suspension with effect from 27.01.2023.

9.In view of the above, this writ petition is disposed of with the following directions :

(a) there shall be a direction to the second respondent to pay the salary and other allowances to which the petitioner is entitled from 07.12.2022 to 31.01.2023 within a period of two weeks from the date of receipt of a copy of this order;

(b) the petitioner has already given his



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explanation for the charge memo. Hence, the Enquiry Officer shall be appointed and the enquiry shall be conducted and completed as expeditiously as possible. If the Enquiry Officer finds that the charges have been proved against the petitioner, the regular procedure shall be followed by giving the petitioner an opportunity to explain and which can ultimately be placed before the second respondent;

(c) the petitioner shall be paid his subsistence allowances during the period when he is kept under suspension;

(d) the second respondent shall complete the disciplinary proceedings and final orders shall be passed within a period of three (3) months the date of receipt of a copy of this order.



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10.It is made clear that the petitioner shall co-operate for the completion of the disciplinary proceedings and he shall not adopt any dilatory tactics.

11.In the result, this Writ Petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

08.02.2023

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case: Yes/No
sp

To

- 1.The District Collector,
Nagapattinam District,
Nagapattinam.
- 2.The Personal Assistant to the District Collector,
Nagapattinam District,
Nagapattinam.



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N.ANAND VENKATESH, J

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