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W.P.No.25710 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.25710 of 2023

Velumurugan

... Petitioner

Vs.

1.State of Tamil Nadu,
Represented by its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai – 600 009.

2.The District Collector,
Virdhachalam Taluk,
Cuddalore District.

3.The Tahsildar,
Vridhachalam Taluk,
Cuddalore District.

4.Village Administrative Officer,
Revenue Department,
Virdhachalam – 606 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the 3rd respondent to consider the representation of the petitioner dated 21.06.2023 and consequently, to direct the 3rd respondent to pay the Subsistence Allowance and to revoke the suspension and to reinstate the petitioner as Village Assistant at Vridhachalam.



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For Petitioner : Mr.T.Sai Krishnan
For R1 to R4 : Mr.S.Rajesh
Government Advocate

ORDER

This writ petition has been filed to direct the 3rd respondent to consider the representation of the petitioner dated 21.06.2023 and consequently, to direct the 3rd respondent to pay the Subsistence Allowance and to revoke the suspension and to reinstate the petitioner as Village Assistant at Vridhachalam.

2.It is the case of the petitioner that, while he was working as Village Assistant at Vridhachalam, he was placed under suspension by order dated 24.05.2018 on the basis of the criminal case registered against him in Crime No.297 of 2018 for the alleged offences under Sections 294(b), 353, 506(ii) IPC, Section 3 of the Tamil Nadu Medicare Service Person and Medicare Institution (Prevention of Violence and Damage or Loss of Property) Act, 2008 and Section 3 of Public Property (Prevention of Damage) Act, 1992. Thereafter, the petitioner was reinstated into service on 11.07.2018. A charge-memo came to be issued against the



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petitioner on 12.07.2018 and ultimately, the disciplinary proceedings were

concluded by exonerating the petitioner from the charges levelled against

him, vide order dated 11.02.2020. Meanwhile, the criminal case

culminated into S.C.No.44 of 2022 on the file of the Additional District-

cum-Sessions Court, Cuddalore at Vridhachalam. By judgment dated

04.01.2023, the trial Court convicted the petitioner for the offences under

Section 294(b) and Section 3 of Tamil Nadu Medicare Service Person and

Medicare Institution (Prevention of Violence and Damage or Loss of

Property) Act, 2008, and sentenced him to undergo five years rigorous

imprisonment and to pay a total fine of Rs.11,000/- and compensation.

The petitioner was acquitted of the charge under Section 506(ii) IPC.

Based on the conviction, the petitioner was once again placed under

suspension on 05.01.2023.

3.It is the further case of the petitioner that he preferred an

appeal against the conviction in Crl.A.No.40 of 2023 before this Court and

this Court, by order dated 12.01.2023, was pleased to grant suspension of

sentence imposed on the petitioner. Since the sentence has now been

suspended, the petitioner seeks for revocation of suspension and also

prays for Subsistence Allowance. Hence, the writ.



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4.Heard the learned counsel for the petitioner and Mr.S.Rajesh, learned Government Advocate, who takes notice for the respondents.

5.Since the sentence alone is now suspended by the Appellate Court, this Court is of the view that the petitioner cannot seek revocation of suspension and reinstatement into service as a matter of right, unless the judgment of conviction passed by the trial Court is stayed by the Appellate Court. However, since the petitioner is placed under suspension and no penalty has been imposed on him in the departmental proceedings, the respondents are directed to pay Subsistence Allowance to the petitioner as per Rules.

6.With the above direction, this writ petition is disposed of. No costs.

05.09.2023

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Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

Speaking order / Nonspeaking order



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N. SATHISH KUMAR, J.
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