

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2023

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.5443 of 2023

Rathina Kaleeswaran

... Petitioner

**Vs.**

1.The District Collector,  
Sivagangai District,  
Sivagangai.

2.The Block Development Officer,  
Devakottai Panchayat Union,  
Devakottai,  
Sivagangai District.

3.The Probation Officer,  
Collectorate Building,  
Sivagangai District.

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 & 2 to take immediate action for the reinstatement of the petitioner in the post of Junior Assistant at any Panchayat Union under the control of the first respondent in the light of the legal opinion and proceedings of the first respondent in Na.Ka.No.Ip.P3/27114/2015, dated 08.02.2016 within a time frame as fixed by this Court.

For Petitioner : Mr.B.Prahalad Ravi

For Respondents : Mr.K.Balasubramani  
Special Government Pleader for R1

: Mr.K.S.Selvaganesan  
Additional Government Pleader for R2 & R3

### **ORDER**

Heard the learned counsel on either side.

2. The petitioner was working as Junior Assistant in the office of the second respondent. It was alleged that the petitioner committed misappropriation to the tune of Rs.9,032/-. Crime No.284 of 2010 was registered on the file of the Kalaiyarkovil Police Station. The case was charge sheeted and the petitioner was found guilty under Section 409 of IPC in C.C.No.6 of 2011 on the file of the District Munsif cum Judicial Magistrate, Illaiyangudi and convicted and sentenced. Questioning the same, the petitioner filed C.A.No.42 of 2011 on the file of the Sessions Court, Sivagangai and the appeal was partly allowed on 28.10.2014. The operative portion of the Judgment of the appellate court reads that the accused was ordered to be released under Section 4 of Probation of Offenders Act. Section 12 of Probation of Offenders Act, 1958 reads that notwithstanding anything

contained in any other law, a person found guilty of an offence and dealt with under the provisions of Section 3 or Section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under law.

3. From the averments set out in the affidavit filed in support of the writ petition or the materials enclosed in the typed set of papers, I am not able to come to any conclusion as to whether the petitioner was terminated only on the strength of conviction and sentence by the criminal court or if any departmental enquiry was held. If termination was on account of conviction, then, the petitioner may be entitled to the benefit of Probation of Offenders Act. In fact, when the petitioner gave a representation dated 02.12.2015, the then District Collector sought legal opinion. The legal opinion appears to be in favour of the petitioner.

4. The first respondent is directed to consider the petitioner's representation and pass final order on merits and in accordance with law within a period of five weeks from the date of receipt of a copy of this order.

5. The Writ Petition is disposed of accordingly. No costs.

**14.03.2023**

Index : Yes / No  
Internet : Yes/ No  
rmi

**G.R.SWAMINATHAN, J.**

rmi

To

- 1.The District Collector,  
Sivagangai District,  
Sivagangai.
- 2.The Block Development Officer,  
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Devakottai,  
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