



W.P.(MD).No.3979 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 13.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.3979 of 2016
and
W.M.P.(MD).No.3570 of 2016**

T.Rajakannan

... Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Block Development Officer,
(Village Panchayat),
Valliyoar,
Tirunelveli District.

3.The President,
Chidambarapuram Jacopuram Panchayat,
Valliyoar Panchayat Union,
Chidambarapuram Village,
Via Palavoor,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents particularly the third respondent to consider petitioner's representation dated 18.05.2015 in pursuance of the recommendation as made by the first respondent by means of a communication dated 27.03.2015 made in Na.Ka.No.Noo.12/8289/2015 and the second respondent by means of a



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communication dated 08.04.2015 made in Na.Ka.No.Aa3/2058/2010 and dispose of the same on merit and in accordance with law within a time frame as specified by this Court forthwith.

For Petitioner : Mr.S.Palani Velayutham

For R-1 : Mr.M.Lingadurai,
Special Government Pleader.

For R-2 and R-3 : Mr.T.S.Mohamed Mohideen

ORDER

This Writ Petition is filed for Mandamus, directing the respondents particularly the third respondent to consider the representation dated 18.05.2015 in pursuance of the recommendation made by the first respondent vide communication dated 27.03.2015 and the second respondent vide communication dated 08.04.2015 and dispose of the same on merit and in accordance to law.

2. The petitioner was appointed as Panchayat Assistant. Because of some allegations, the petitioner was placed under suspension vide order dated 18.12.2008. The allegation against the petitioner is that he has committed irregularities by collecting excess money for providing water connection to the residents of the Village, thereby cheated the public to the tune of Rs.8,10,000/-. Hence, a charge memo dated 02.01.2009 was issued. The



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petitioner has challenged the suspension order in Writ Petition W.P.(MD).

No.13683 of 2009 and this Court vide order dated 21.12.2009 has granted an order of interim stay. Based on the order, an order dated 19.02.2010 has been issued to the Block Development Officer by the District Collector, to give direction to the President, Chidambarapuram-Yacopuram Village Panchayat to reinstate the petitioner. The President has sent a communication dated 24.02.2010 directing the petitioner to join duty and the petitioner has also joined the duty on 25.02.2010. In the meanwhile, a criminal case has been initiated by the Vigilance and Anti-Corruption Department against the petitioner. Hence, the District Collector vide order dated 10.11.2010, transferred the petitioner to Idayankulam Village Panchayat. Hence, the petitioner was relieved from Chidhambarapuram- Yacopuram Village Panchayat in order to join the transferred post. Even though the transfer order was issued, he was not issued any posting order in the transferred post. In the meanwhile, the Writ Petition in W.P.(MD)No.13683 of 2009 was dismissed vide order dated 26.07.2011. Following the same, the District Collector vide order dated 21.09.2011 has cancelled the reinstatement order. The District Collector has also instructed to issue subsistence allowance to the petitioner vide order dated 27.03.2015 by referring to G.O.Ms.No.72 Rural Development and Panchayat Raj Department dated 09.07.2013 to pay subsistence allowance to the petitioner



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from 09.07.2013 to the petitioner. In spite of such direction, the third respondent has not granted subsistence allowance. Hence, the petitioner is before this Court.

3. The petitioner was directed to join the transferred post. However, the authority in the transferred post has not issued the posting order. Therefore, the petitioner could not join in the said transferred post and consequently he is not receiving any salary. If the respondents have kept the petitioner under suspension, he would have received the subsistence allowance. Because of the inaction of the third respondent, the petitioner is neither receiving the salary nor subsistence allowance.

4. Based on the counter filed by the respondents, it is seen that since the petitioner's reinstatement and transfer are cancelled by the District Collector, as on date the petitioner is under suspension only. Therefore, the petitioner is entitled to subsistence allowance. The third respondent is directed to pay subsistence allowance for the suspended period within a period of six (6) weeks from the date of receipt of a copy of this order.



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WEB COPY 5. In view of the above, this Writ Petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

13.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

- 1.The District Collector,
Tirunelveli District,
Tirunelveli.
- 2.The Block Development Officer,
(Village Panchayat),
Valliyoor,
Tirunelveli District.
- 3.The President,
Chidambarapuram Jacopuram Panchayat,
Valliyoor Panchayat Union,
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S.SRIMATHY, J.

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