



W.P. No. 16836 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P. No. 16836 of 2018

and

W.M.P. No. 20023 of 2018

S.G. Suseendiran

... Petitioner

Vs.

1. Directorate of Rural Development & Panchayat Raj,
Panagal Maligai, 4th Floor,
Abdul Razzak Street,
West Saidapet, Chennai – 600 015.

2. The District Collector,
Ramanathapuram.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records in proceedings Na.Ka.No.107999/2017/B1, dated 16.04.2018 and quash the same as illegal, incompetent and wholly without justification and further direct the respondents to reinstate the petitioner as Computer Assistant and thereby render justice.

For Petitioner : Mr. Aswin Prasad,
for Ms. V. Srimathi
For Respondents : Mr. G. Amedius,
Government Advocate



ORDER

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Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and perused record.

2. The petitioner was appointed as Computer Assistant in Rural Development Office, Kamuthi on 19.06.2008. Eliciting that he had addressed an E-mail to the higher officials, abusing and criticising the manner in which the work is done, thereby, preventing them from discharging their duties, an FIR was registered against the petitioner. The petitioner apprehending arrest, moved petition for anticipatory bail in Crl. O.P. No.21409 of 2009 before the Madurai Bench of Madras High Court and he was granted anticipatory bail.

3. The District Collector, who is the second respondent has conducted an enquiry on 05.11.2016 and after completion of the enquiry, the petitioner was dismissed from service on 30.06.2017.

4. It is the case of the petitioner that against the order of the District Collector, he preferred an appeal before the first respondent on 04.07.2017 and against the inaction of the first respondent, in considering the appeal, the petitioner has constrained to file writ petition in W.P. No. 27484 of 2017 before this Court. This



Court, by order dated 26.10.2017, disposed of the writ petition with a direction to the first respondent to consider the appeal filed by the petitioner and pass orders thereon in accordance with law, within a period of eight weeks from the date of receipt of copy of the order. Thereafter, the first respondent has passed an order dated 16.04.2018. In the said order, at paragraph No. 4, it is stated that, no appeal has been received from the petitioner in the office of the first respondent. But the order dated 16.04.2018 passed by the first respondent confirming the order dated 30.06.2016 passed by the District Collector. In the light of the said order, the learned counsel for the petitioner contends that when the first respondent is taking stand that no appeal is filed by the petitioner, passing order dated 16.04.2018, pretending to be an order in appeal does not arise.

5. Learned counsel for the petitioner further contends that no opportunity of hearing was provided to the petitioner before passing the order dated 16.04.2018 by the first respondent.

6. On the other hand, the learned Government Advocate would submit that as per the order dated 26.10.2017 in W.P. No. 27484 of 2017 of this Court, the first respondent passed order dated 16.04.2018.



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7. Having heard the submissions of the respective counsel, it appears that, if the stand of the first respondent that, no appeal preferred by the petitioner before him, is to be treated as true, passing the impugned order by the first respondent as an order in appeal does not arise. If really appeal is not pending before the first respondent, he ought to have filed a review petition before this Court to review its order dated 26.10.2017 in W.P. No. 27484 of 2017 or the first respondent can pass order stating that, to consider and dispose of the appeal as directed by the High Court, there is no appeal pending with them and the same fact has to be intimated to the petitioner. Without doing so, the first respondent passed order dated 16.04.2018, as per him, in an appeal not in existence.

8. Under these factual circumstances, in the considered opinion of this Court, the order impugned in this writ petition passed by the first respondent on 16.04.2018 is unsustainable under law.

9. Accordingly, this Writ Petition is allowed and the order impugned in this writ petition is hereby set aside.



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10. The petitioner shall submit a copy of the grounds of appeal to the first respondent, within one week from the date of receipt of copy of this order. On receipt of the same, the first respondent shall consider and dispose of the said appeal within a period of four weeks thereafter. The first respondent shall provide opportunity for personal hearing to the petitioner before disposing the appeal.

11. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

01.10.2024

Index :Yes/No

Neutral Citation :Yes/No

AT

To

1.The Directorate of Rural Development & Panchayat Raj,
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2.The District Collector,
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BATTU DEVANAND, J.

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