



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.24427 of 2024
and W.M.P.No.26707 of 2024

P.Kanagaraj

... Petitioner

Vs.

1.The District Collector,
Coimbatore District,
Coimbatore.

2.The Block Development Officer,
Karamadai Panchayat Union,
Karamadai,
Coimbatore District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to reinstate the petitioner in the post of Panchayat Secretary, Chikkadasampalayam Village Panchayat, Karamadai Union, Coimbatore District by considering the petitioner's representation dated 18.07.2024

For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.M.Bindran
Additional Government Pleader for R1
Mr.M.Alagugoutham
Government Advocate for R2



ORDER

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This writ petition has been filed for issue of writ of mandamus directing the respondents to reinstate the petitioner in the post of Panchayat Secretary by considering the representation made by the petitioner on 18.07.2024.

2.Heard Mr.R.Jayaprakash, learned counsel appearing on behalf of the petitioner, Mr.M.Bindran, learned Additional Government Pleader appearing on behalf of the 1st respondent and Mr.M.Alagugoutham, learned Government Advocate appearing on behalf of the 2nd respondent.

3.The case of the petitioner is that a charge memo dated 02.03.2018 was issued to the petitioner containing six charges. The petitioner also submitted his explanation to the charge memo. The petitioner in the meantime was placed under suspension through order dated 21.08.2017. This suspension order came to be challenged by the petitioner in W.P.No.33361 of 2017. The writ petition was disposed of by an order dated 31.05.2018 by directing the respondents to consider the representation made by the petitioner seeking for the revocation of the order of suspension.



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4. Pursuant to the above order, the proceedings dated 01.10.2018 was passed by the Block Development Officer and thereby, the petitioner was relieved from the services of Jadayampalayam Panchayat Secretary. The above order was challenged in W.P.No.29208 of 2018 on the ground that the order has been passed without affording any opportunity to the petitioner and without issuing any change memo.

5. This writ petition was disposed of by this Court with the following directions:

14. The respondents shall endeavour to complete the disciplinary proceedings in respect of which purported action was taken in the impugned order and in the pending proceedings that were initiated in 2017 and 2018 within a period of twelve months from the date of receipt of a copy of this order. Since the allegations against the petitioners are serious in nature, the petitioner shall continued to be under suspension and the fact that the petitioner as an employee of the second respondent, thereafter shall be subject to the final outcome of the disciplinary proceedings.

15. The respondents are directed to pay subsistence allowances to the petitioner in terms of Rule 17 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules 2013. The respondents shall release the arrears of the subsistence allowances for the period starting from 2018 within a period of three months from the date receipt of a



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copy of this order. Going Forward, the respondents shall start to pay the subsistence allowances month-on-month basis till the date of completion of the disciplinary proceedings.

6.The grievance of the petitioner is that in spite of the order passed by this Court, the disciplinary proceedings has not been completed and the petitioner continues to be under suspension for more than seven years. Hence, the petitioner made a representation on 18.07.2024, requesting the respondents to revoke the order of suspension and to reinstate the petitioner. Since the same was not considered, the present writ petition has been filed before this Court.

7.When the matter came up for hearing on 27.08.2024, this Court passed the following order:

In spite of the earlier direction issued by this Court in WP No.29208 of 2018, directing the respondents to complete the disciplinary proceedings within a period of twelve months, the disciplinary proceedings have not been completed and therefore, the present writ petition has been filed before this Court.

2. The learned Additional Government Pleader appearing on behalf of the 1st respondent seeks for some time to take instructions in this case with regard to the status of the disciplinary proceedings.



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3. Post this case at the end of the motion list on 10.09.2024.

8.Pursuant to the above order, the learned Additional Government Pleader has taken written instructions from the District Collector and the same was placed before this Court. It is seen from the written instructions that the disciplinary proceedings has not been completed, since the report of the Enquiry Officer has not been received and the criminal proceedings against the petitioner is pending. That apart, the request made by the petitioner to reinstate him into service was also rejected through proceedings dated 23.05.2023.

9.In the considered view of this Court, the petitioner has been placed under suspension from 21.08.2017 onwards. For the last seven years, the petitioner has been receiving the subsistence allowance without doing any work and the disciplinary proceedings against the petitioner has also not been completed. This Court had directed the disciplinary proceedings to be completed in twelve months and the earlier order was passed in W.P.No.29208 of 2018, dated 09.09.2021. In spite of the same, the disciplinary proceedings have not been completed till date.



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10. There is no use in continuously paying subsistence allowance to the petitioner for more than seven years without extracting any work from the petitioner. In view of the same, the petitioner can be taken back to service and can be posted in some non-sensitive post. At the end of the day, some work must be extracted from the petitioner and the salary must be paid for that work. Instead, the petitioner is away from work for more than seven years and the money is unnecessarily paid to the petitioner from the public exchequer.

11. Taking into consideration the facts and circumstances of the case and also of the fact that the petitioner has been kept under suspension from the year 2017 onwards and the disciplinary proceedings have not been completed till date in spite of the directions issued by this Court, there shall be a direction to the 1st respondent to pass necessary orders reinstating the petitioner into service and the petitioner shall be given posting in a non-sensitive post. This order shall be passed by the 1st respondent, within a period of four weeks from the date of receipt of copy of this order. The disciplinary proceedings shall also be completed against the petitioner, within a period of three months from the date of receipt of copy of this order.



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12. This writ petition is disposed of with the above directions. No Costs.
Consequently, connected miscellaneous petition is closed.

11.09.2024

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
ssr

To

1. The District Collector,
Coimbatore District,
Coimbatore.
2. The Block Development Officer,
Karamadai Panchayat Union,
Karamadai,
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N. ANAND VENKATESH, J.

SSR

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