



W.P.No.24881 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.24881 of 2023
and W.M.P.Nos.24305 and 24306 of 2023

S.Sivakumar

...Petitioner

-Vs-

1. The District Collector,
Villupuram District,
Villupuram.
2. Personnel Assistant to District Collector,
(Development), Villupuram,
Villupuram District,
Villupuram.
3. The Block Development Officer, (V.P),
Panchayat Union,
Koliyanur,
Villupuram District.

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the concerned records relating to the order in Na.Ka.No.PD3/448723/2022 dated 07.08.2023 passed by the second respondent and quash the same and consequently direct the second



W.P.No.24881 of 2023

respondent to reinstate the petitioner into services with all consequential monetary and other attendant service benefits.

For Petitioner : Mr.M.Gnanasekar

For R1 to R3 : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the second respondent dated 07.08.2023, thereby dismissed the petitioner from service.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioner was appointed as a Secretary in Ariyalur Panchayat, on 02.08.2010. Thereafter, he was suspended from service on 09.03.2022, on the ground that a six member committee was constituted for the misappropriation by the Panchayat President and the petitioner between the year 2012 to 2016 in the matter of maintenance of village accounts of the Panchayat. Though the petitioner was suspended from service, he was not paid any subsistence allowance. Thereafter, the



W.P.No.24881 of 2023

petitioner was served with a charge memo, on 22.02.2023. The petitioner submitted explanation for the charge memo.

4. Thereafter, the petitioner approached this Court in W.P.No.22922 of 2023 to review the order of suspension dated 09.03.2022 and also for direction directing the respondent to pay subsistence allowance. This Court, by an order dated 04.08.2023 directed the respondent to revisit the order of suspension in view of the guidelines issued by the Government in G.O.(Ms).No.81, Human Resources Management (N) Department, dated 04.08.2022, within a period of one month from the receipt of a copy of the order. Further directed the respondent to complete the enquiry within a period of three months from the date of receipt of a copy of the order. Thereafter, the petitioner was served with a show cause notice and on receipt of the explanation, enquiry was conducted. After enquiry, the petitioner was dismissed from service. Hence, this writ petition.

5. The learned counsel for the petitioner would submit that the



W.P.No.24881 of 2023

petitioner was dismissed from service without conducting any enquiry.

The petitioner was not given an opportunity of hearing during the enquiry. Therefore, it is a clear violation of principles of natural justice.

So far, the petitioner was not paid any subsistence allowance. Mere deposit of amount would not amount to admission of guilt. Since the petitioner was directed to remit the amount, the petitioner deposited the amount to the tune of Rs.3,81,790/-, on 25.06.2021. Except the fact finding Committee enquiry, no disciplinary enquiry was conducted after issuance of charge memo to the petitioner.

6. A perusal of the counter and the learned Special Government Pleader appearing for the respondents would submit that after issuance of charge memo dated 22.02.2023, personal enquiry was conducted by the Personal Assistant to the Collector and additional Collector, Villupuram, on 12.06.2023. The petitioner had appeared and failed to give proper evidence for the funds received by him by means of cheques in the Village Panchayat accounts including Account No.2, from which the cheques for Government transactions are only made. Insofar as the



W.P.No.24881 of 2023

suspension allowance is concerned, the petitioner had received the suspension allowance of a sum of Rs.85,379/- from 10.03.2022 to 31.07.2022. Due to insufficient balance in Village Panchayat Account, the suspension allowance to the tune of Rs.1,33,634/- is due to the petitioner.

7. Now, the proposal has been sent to the Assistant Director (Panchayat) to allow and transfer the suspension allowance to the Village Panchayat account. Once the said permission is received, the petitioner will be paid with suspension allowance. Insofar as the misappropriation of funds is concerned, the petitioner himself had drawn funds from the Government account in his name which is violation of rules. The petitioner failed to bring to the knowledge of the higher officials about the misappropriation of funds being done by the elected Presidents for years together. The petitioner also disobeyed the mandatory official functioning duty of the Panchayat Secretary to maintain the cashbooks and related vouchers.



W.P.No.24881 of 2023

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8. Therefore, this Court finds no infirmity or illegality in the order passed by the second respondent and the writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petitions are closed.

No costs.

01.07.2024

Internet: Yes
Index : Yes/No
Neutral Citation: Yes/No
Speaking/Non Speaking order
mn

G.K.ILANTHIRAIYAN. J.



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W.P.No.24881 of 2023

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To

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W.P.No.24881 of 2023

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