



WEB COPY



W.P.No.10095 of 2017

IN THE HIGH COURT AT JUDICATURE AT MADRAS

DATED: 09.09.2024

CORAM:

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.10095 of 2017

and

WMP.Nos.11076 & 11077 of 2017

M.Abdul Samad

...Petitioner

Vs.

1.The Block Development Officer,
(Village Panchayat),
Kodavasal, Thiruvarur District .

2.The President,
Koondalur Village Panchayat,
Kodavasi Taluk,
Thiruvarur District.

...Respondents

Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 2nd respondent in Na.Ka. No.3/2015 dated 07.03.2016 quash the same and consequently direct the respondents herein to reinstate the petitioner with regularization of his suspension period with all monetary and attendant benefits within a reasonable time as may be fixed by this Court.



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For Petitioner : Mr.S.T.P.Kuil Mozhi
For Respondents : Mr.R.Kumaravel,
Additional Government Pleader
for R1
Mr.K.Surendran
for R2

ORDER

Writ petition is filed for a writ of certiorarified mandamus, calling for the records relating to the impugned order of the 2nd respondent dated 07.03.2016 quash the same and consequently direct the respondents herein to reinstate the petitioner with regularization of his suspension period with all monetary and attendant benefits within a reasonable time as may be fixed.

2. The petitioner joined temporarily in the service of the respondent Panchayat as Over Head Tank Operator, at Koondalur Village Panchayat. The petitioner was an agriculturist and a tenant of nanja lands in Sembian Koondalur Village, Koondalur, Kodavasal Taluk, Thiruvarur. The petitioner was a recorded tenant of the aforesaid lands which belonged to one Govindasamy Chettiar,



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S/o.Vaidyalingam. The petitioner served as a Over Head Tank Operator on part time basis and his main avocation was agricultural labour. One Kumudavalli, the purchaser of the lands, of which the petitioner was a tenant, gave a false complaint against the petitioner on 04.03.2011, alleging that the entries in RTR register were false. The petitioner on the basis of the complaint was arrested on 04.03.2011 and remanded to judicial custody till 09.03.2011. The petitioner joined respondent Panchayat on 09.03.2011. Whiles, the investigating officer filed a petition for further investigation and same was ordered on 23.06.2015. The 2nd respondent after lapse of 5 years from the date of occurrence, which took place in 2010 passed an order of suspension dated 07.03.2016, against the petitioner without any valid reason. The petitioner was therefore constrained to challenge the same in the present writ petition.

3. The 2nd respondent filed counter stating that the petitioner was involved in a criminal case in Crime No.2 of 2011 on 04.03.2011 under Section 465, 466 & 471 of IPC and was arrested and remanded to judicial custody from



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04.03.2011 to 09.03.2011. The petitioner's involvement in the criminal case and

the arrest was not brought to the notice of the 2nd respondent by the petitioner

and therefore the petitioner continued to work till 06.03.2016. The respondent

stated that Deputy Superintendent of Police, District Crime Branch, Thiruvarur

wrote letter to the District Collector, Thiruvarur on 30.06.2015, stating that the

petitioner was involved in criminal case as aforesaid and was facing criminal

case in CC.No.15 of 2014 before District Munsif cum Judicial Magistrate

Court, Nannilam and therefore requested the District Collector, Thiruvarur to

take departmental action against the petitioner. On receipt of the report from

Deputy Superintendent of Police, the 1st respondent vide letter dated

29.02.2016, issued instructions to the 2nd respondent to take appropriate action

against the petitioner. The 2nd respondent thereafter passed the impugned order

suspending the petitioner from service vide order dated 07.03.2016. The

respondents stated that as the petitioner suppressed his involvement in the

criminal case and continued to work as Over Head Tank Operator till his

suspension on 07.03.2016 there occurred a delay of 5 years in passing the



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impugned order. The respondent stated that the the 2nd respondent was vested with the powers to pass the impugned orders as admittedly the petitioner was only a part time employee. The respondent further stated that as the criminal case was still pending against the petitioner, it would be against public interest to reinstate him in service. The respondent therefore prayed for dismissal of the writ petition.

4. The learned counsel for the petitioner submitted that the alleged criminal occurrence took place in 2010, the criminal case was registered in 2011 and after a long delay of 5 years the impugned suspension order dated 07.03.2016 was passed. The learned counsel further submitted that the respondent failed to note that the criminal case was foisted against the petitioner by the purchaser of the lands from his landlord with ulterior motive and as a counter blast to the Civil case filed by the petitioner against her in O.S.No.96 of 2010 on the file of District Munsif Court, Nannilam. The learned counsel submitted that for the aforesaid reasons the suspension order deserved to be set aside.



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5. The learned counsel for the respondent's on the other hand submitted that the delay in passing the impugned order of suspension was only because the petitioner suppressed his involvement in the criminal case and continued to work till 2016. It was only after the information was received from the Deputy Superintendent of Police that action was initiated against the petitioner and the impugned order was passed. The learned counsel further submitted that petitioner was only a part time employee and hence not covered by any service rules. The learned counsel submitted that 2nd respondent under the Tamil Nadu Panchayat Act was empowered to pass the order of suspension. The learned counsel further submitted that, in any event, as criminal proceedings were still pending against the petitioner, it would be unfair and improper to reinstate the petitioner into service. The learned counsel therefore prayed for dismissal of the writ petition.

6. I have heard both the learned counsels and have perused the materials placed on record.



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7. It is undisputed that petitioner was involved in a crime in C.C.No.15 of 2014 before the District Munsif cum Judicial Magistrate Court, Nannilam, with reference to a complaint given by one Kumudavalli under Section 465, 466 & 471 of IPC. The petitioner was employed temporarily as Over Head Tank Operator on 01.01.1999 and he continued to work till his suspension on 06.03.2016. It was in pursuance of the letter sent by Deputy Superintendent of Police, District Crime Branch, Thiruvarur to the District Collector, Thiruvarur on 30.06.2015, that the involvement of the petitioner in the criminal case came to light. Based on the report of the Deputy Superintendent of Police addressed to the District Collector and on the instructions of the District Collector, the 2nd respondent passed the impugned order on 07.03.2016. The petitioner did not divulge his involvement in the criminal case and it was only through the letter of the Deputy Superintendent of Police, District Crime Branch addressed to the District Collector on 30.06.2015, that the involvement of the petitioner in a criminal case came to light. Thereafter based on the District Collector's instructions on 29.02.2016, the 2nd respondent issued the impugned suspension



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order. From the above it is clear that the delay in issuing the impugned suspension order was attributal to the petitioner who suppressed the criminal proceedings initiated against him and his consequent arrest with reference to the same. As the petitioner did not inform the respondents about his involvement in the Criminal case, the respondents cannot be blamed for the delay, moreso, when the impugned order was passed within reasonable time from the date of information given by the Deputy Superintendent of Police.

I find no infirmity or illegality or impropriety in the impugned order and therefore the writ petition is dismissed. No costs. Consequently connected WMP No's. are closed.

09.09.2024

Index:Yes/No

Speaking Order:Yes/No

Neutral Citation:Yes/No

dsn



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To

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(Village Panchayat),
Kodavasal, Thiruvarur District .

2.The President,
Koondalur Village Panchayat,
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N.MALA,J.

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