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W.P.No.31634 of 2022.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.31634 of 2022
and W.M.P.Nos.31091, 31092 & 31093 of 2022

V.Elumalai

.. **Petitioner**

Vs.

1. The District Collector
Thiruvannamalai District, Thiruvannamalai.

2. The Block Development Officer,
Peranamallur Panchayat Union, Peranamallur,
Now Chepet Taluk,
Thiruvannamalai District.

3. The President,
Namathode Village Panchayat,
Namathode Peranamallur Union
Now Chepet Taluk, Thiruvannamalai District.

.. **Respondents**

Prayer: Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, call for the records pertaining to the impugned order of termination passed by the 3rd respondent dated 23.04.2002 consequential orders passed by the 1st respondent vide his

Page 1 of 6



W.P.No.31634 of 2022.

proceedings No.NA.KA.No. 12353/2018/PAE2 dated 05.08.2022
No.NA.KA.No. 12353/2022/PAE2 dated 19.09.2022 NA.KA.No.
12353/2018/PAE2 dated 07.11.2022 and order passed by the 2nd respondent
in proceedings No.NA.KA.VA.A7/708/2022 dated 02.09.2022 quash the
same, and consequently direct the respondents 1 and 2 to reinstate the
petitioner into service with all back wages and all attendant benefits, based
on disability certificate, appointing him as Panchayat Secretary (then
Panchayat Clerk) in Namathodu Panchayat with all service and monetary
benefits.

For the Petitioner : Ms.Selvi Rajesh

For the Respondents : Mr.C.Jayaprakash
Government Advocate
for RR1 &2

ORDER

The petitioner was removed from service in the year 2002, by an order dated 17.04.2002. The petitioner filed a W.P.No.43892 of 2002 challenging the suspension in the year 2002 itself and by an order dated 05.11.2009, it was specifically recorded that the petitioner has already been removed from service and that the petitioner has to challenge the same, if he so desired.

2. Thereafter, the petitioner challenged the removal by W.P.No.11919 of 2010. By an order dated 11.04.2022, this Court directed the respondents



W.P.No.31634 of 2022.

therein to dispose of the appeal dated 23.04.2002, which is said to be pending before the 1st respondent. The 1st respondent thereafter considered the said appeal and by the impugned order rejected the appeal. The reasons mentioned in the impugned order are, firstly the petitioner has crossed the upper age limit and secondly, the claim is very belated.

3. The learned counsel appearing on behalf of the petitioner would submit that the claim of the petitioner cannot be treated as belated. Immediately after the removal order, the petitioner approached this Court and merely because the case has been pending in Court for a long time, the same cannot be put against the petitioner. The 1st respondent never considered the correctness or otherwise of the earlier order. The petitioner is aged 48 years and therefore, still has service. He is also suffering from vision impairment and is differently-abled, he deserves consideration on that aspect also. The learned counsel for the petitioner would submit that the Block Development Officer even admonished the President for making such a resolution and it is very clear that the removal of the petitioner was illegal at that point of time.

Page 3 of 6



W.P.No.31634 of 2022.

WEB COPY

4. Per contra, the learned Government Advocate would submit that when the petitioner was removed from service, he did not challenge the same. Even though he filed the second Writ Petition in the year 2010, which was disposed of in the year 2022 and the first Writ Petition itself was belatedly filed. Only considering the efflux of time and delay on the part of the petitioner, the appeal has been rejected.

5. I have considered the rival submissions made on either side and perused the material records of the case.

6. The petitioner was appointed in the year 1999 and worked for a period of three years. At that relevant point of time, he was removed from service. Even though, he approached this Court against the suspension, he did not challenge the order removing him from service. Only after the orders were passed in the earlier W.P.No.43892 of 2002 dated 05.11.2009 dismissing the Writ Petition against the suspension, he filed the second W.P.No.11919 of 2010. When this Court directed the respondents therein to

Page 4 of 6



W.P.No.31634 of 2022.

WEB COPY

consider the appeal, the 1st respondent considered the appeal by taking into account, the crossing of upper age limit and also the efflux of long years. It can be seen from the facts that the petitioner has to blame himself as he did not take immediate steps against the order of removal from service.

7. In view thereof, this Court is unable to come to the aid of the petitioner to grant any relief, when especially after considering the facts and circumstances of the case, the 1st respondent has rejected the appeal. Thus, finding no merits in the Writ Petition, the same stands dismissed. No costs.

05.04.2024

Index : Yes
Neutral Citation : No
Speaking order : Yes
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D.BHARATHA CHAKRAVARTHY, J.
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To
1. The District Collector

Page 5 of 6



W.P.No.31634 of 2022.

WEB COPY

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W.P.No.31634 of 2022

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