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W.P.Nos.36074 and 36077 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2024

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

W.P.Nos.36074 and 36077 of 2023
and W.M.P.Nos.36036, 36037, 36039 and 36040 of 2023

W.P.No.36074 of 2023:-

The President,
Veeraragavapuram Panchayat,
Veeraraghavapuram Village,
Ikkadu Post, Thiruvallur Panchayat Union and Taluk,
Thiruvallur District-602 021.

...Petitioner

-Vs-

1. The District Collector,
Thiruvallur District,
Thiruvallur – 602 001.

2. D.Vinoth Kumar

... Respondents

W.P.No.36077 of 2023:-

The President,
Veeraragavapuram Panchayat,
Veeraraghavapuram Village,
Ikkadu Post, Thiruvallur Panchayat Union and Taluk,
Thiruvallur District-602 021.

...Petitioner

-Vs-



W.P.Nos.36074 and 36077 of 2023

1. The District Collector,
Thiruvallur District,
Thiruvallur – 602 001.

2. P.Theruveethi

... Respondents

Common Prayer : Writ Petitions filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari, by calling for the records of the first respondent dated 17.11.2023 ending in Na.Ka.No.17555/2022/BD2 and quash the same.

In Both W.Ps

For Petitioner : Mr.C.S.Kiran

For R1 : Mr.U.Baranidharan
Additional Government Pleader

COMMON ORDER

These Writ Petitions have been filed challenging the order passed by the first respondent dated 17.11.2023, thereby cancelled the order of removal of the second respondents in both the writ petitions and directed the petitioner to reinstate the second respondents in both the writ petitions.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the first respondent and perused the materials available on record.



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3. The second respondent in both the writ petitions were employed as Overhead Tank Operator and they are part time employees of the Village Panchayat. They were dismissed from service on 20.11.2021, on the ground that they were carrying on a private trade by running a photo and video studio and a Beef stall along with agricultural activity on leased lands. Aggrieved by the order of dismissal dated 20.11.2021, the second respondent in both the writ petitions filed appeals on 14.12.2021 before the first respondent. Pending appeal, the second respondent in both the petitions, filed writ petitions before this Court in W.P.No.14719 and 14721 of 2022.

4. This Court by an order dated 12.07.2022 directed the first respondent to consider and pass orders on the appeal preferred by the second respondent in both the petitions and pass appropriate orders to reinstate them forthwith as as Overhead Tank Operator and also issue suitable directions to the Executive Officer of the petitioner Panchayat, for payment of salary to them. Aggrieved by the same, the petitioner filed W.A.Nos.2580 and 2573 of 2022. The Hon'ble Division Bench of this Court, by an order dated 28.11.2022, allowed the writ appeals with a direction to dispose of the appeal filed by the second respondent in both the petitions, within a period of four



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weeks from the date of receipt of a copy of the order. As directed by this Court, the first respondent by an order dated 26.05.2023 allowed the appeal and set aside the order passed by the petitioner herein. Aggrieved by the order passed by the first respondent, once again, the President approached this Court and filed a writ petition in W.P.No.19949 and 19953 of 2023. This Court, by an order dated 07.07.2023, set aside the order passed by the first respondent and directed the first respondent to pass orders afresh in the appeal on merits and after perusing the entire materials including all the disciplinary proceedings and records, within a period of three months from the date of receipt of a copy of the order. Thereafter, the first respondent passed a detailed order dated 17.11.2023, thereby set aside the order passed by the petitioner and directed the first respondent to reinstate the second respondent in both the petition in the post of Overhead Tank Operator.

5. A perusal of records revealed that the second respondent in both the petitions opted as part time Operator of Overhead Tank Operator in the petitioner Panchayat. They were appointed as per the Panchayat Union resolution dated 02.10.2017 and 26.01.2007. They were paid a very meager amount of monthly salary. However, they were not paid monthly salary from



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the month of January, 2021. Therefore, they approached the petitioner for arrears of their salary. However, they were orally terminated and they were not given any work. Since the petitioner is a Woman President, her husband one Murugan, who is taking care of the operation of Overhead Tank Operator of the petitioner Panchayat, had taken the entire control of the Overhead Tank Operation by putting separate lock and key. Therefore, the second respondent in both the writ petitions lodged a complaint as against the said Murugan and on receipt of the same, C.S.R.No.572 of 2021 was issued. Therefore, the President and her husband had threatened them to withdraw the complaint. However, they failed to do so and as such, they were issued memo dated 28.07.2021, on the ground that they had not attended the duty and called for explanation.

6. As stated supra, they were working as Overhead Tank Operator from the year 2015 without any complaint whatsoever from the general public. Only because of the complaint lodged as against the said Murugan, they were issued memo and on receipt of the same, they had also submitted their detailed explanation. However, wife of the said Murugan, being the President of the petitioner Panchayat, passed a resolution dated 29.10.2021



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and dismissed the second respondent in both the petitions by the proceedings dated 20.11.2021. As directed by this Court, the first respondent conducted a detailed enquiry in the appeals filed by the second respondent in both the petitions on 11.07.2022. During enquiry, the first respondent had examined the Block Development Officer, Thiruvallur Panchayat Union, the petitioner and the second respondent in both the petitions. On enquiry, the first respondent found that uninterrupted drinking water was supplied to the general public and no complaint was received from the general public for any allegations as against the second respondent in both the petitions. That apart, the petitioner had kept the daily Attendance Register at her home and did not allow them to sign in the Attendance Register. It should be kept in the Panchayat office. Therefore, they were unable to sign the Attendance Register. However, they have done their duty promptly and operated the overhead tank and supplied water to the entire public of the petitioner Panchayat. Thereafter, the said Murugan, on his own engaged another person to operate the Overhead Tank.



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7. Therefore, the first respondent had rightly set aside the order passed by the petitioner and directed to re-instate the second respondent in both the petitions in the post of Overhead Tank Operator and also directed to pay salary from the month of January, 2021. That apart, the entire litigation expenses were borne out from the office of the petitioner Panchayat. In order to score the private vengeance as against the second respondent in both the petitions, the Panchayat fund had been spent for these litigations. Panchayat fund is nothing but tax payers' money and it should not be utilized for the private dispute between the President's husband and the second respondent in both the writ petitions.

8. As stated supra, the petitioner keeps on fighting as against the order passed by the first respondent and had spent the Panchayat money in an unwanted litigation. It is also to be noted that the second respondent in both the petitions were paid a very meager salary of Rs.2,500/- per month, since they were working as part time operators of the Overhead Water Tank. Therefore, there is absolutely no bar for them to do other work for their livelihood. Therefore, the first respondent should not have terminated them and keep on fighting against them by spending the Panchayat money.



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9. In view of the above, both the writ petitions are liable to be dismissed with cost. Accordingly, these writ petitions are dismissed. The petitioner is directed to pay a sum of Rs.25,000/- for each writ petitions to the credit of Veeraragavapuram Panchayat, Thiruvallur District. Consequently, connected Miscellaneous petitions are closed.

04.01.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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To

The District Collector,
Thiruvallur District,
Thiruvallur – 602 001.



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G.K.ILANTHIRAIYAN. J.

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