



W.A.(MD)No.1350 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**

AND

THE HONOURABLE **MR.JUSTICE K.K. RAMAKRISHNAN**

W.A.(MD)No.1350 of 2016

M.Muthukumar

...Appellant

/Vs./

1.The District Collector,
Tirunelveli District.

2.The Block Development Officer,
Kadayanallur Panchayat Union,
Tirunelveli District.

3.The President,
Kasitharmam Village Panchayat,
Kadayanallur Panchayat Union,
Tirunelveli.

...Respondents

PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, to allow the writ appeal and to set aside the order passed by this Court in W.P.(MD)No.13343 of 2016 dated 27.08.2011.



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For Appellant : Mr.RM.Loganathan
For Respondents : Mr.A.K.Manikkam (R1 & R2)
Special Government Pleader
Mr.T.S.Mohamed Mohideen (R3)

JUDGMENT

(Judgment of the Court was made by **V.BHAVANI SUBBAROYAN, J.**)

This writ appeal has been arisen out of the order passed by this Court in WP(MD)No.13343 of 2011 dated 27.08.2014, which was filed challenging the order passed by the first respondent, who had confirmed the punishment of dismissal of the writ petitioner.

2. The case of the writ petitioner is that the writ petitioner was working as Panchayat Assistant in the third respondent Panchayat, who had issued a charge memo to the writ petitioner levelling seven charges, one of which is misappropriation of fund, which was found at the time of inspection. The writ petitioner withdrew a sum of Rs.50,000/- by way of cheque from the account of Mahathma Gandhi Rural Employment Scheme, which should be credited into the panchayat account. Then only



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it can be spent. But, the writ petitioner utilized the same for a period of six months without paying to the Panchayat account. Being not satisfied with the explanation submitted by the writ petitioner, the third respondent appointed an enquiry officer to hold an enquiry into the charges levelled against the writ petitioner.

3. The further case of the writ petitioner is that based on the enquiry report, the third respondent has also passed a resolution dismissing the writ petitioner from service. Challenging the same, the writ petitioner filed an appeal before the first respondent, who has also confirmed the punishment of dismissal from service. Challenging the same, the writ petition has been filed by the writ petitioner with a direction to reinstate the writ petitioner into service. This Court also dismissed the writ petition. Hence, the writ petitioner is before this Court by way of filing this appeal.

4. The learned counsel appearing for the appellant submits that the amount which is said to have been misappropriated has been handed



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over to the third respondent. He utilised the same and returned the said amount only after a period of six months. Only thereafter, the same has been credited to the Panchayat account. The third respondent is also having liability for such transaction in question. There is no proper enquiry conducted by the enquiry officer and the enquiry officer has not even examined the writ petitioner / appellant. There is also no opportunity given to the writ petitioner / appellant to adduce further evidence. Hence, he prayed this Court to allow this writ appeal.

5. The learned Special Government Pleader and the learned counsel appearing for the respondents states that it was only the village panchayat, who had given a complaint against the writ petitioner / appellant that he had misappropriated the aforesaid amount. But, no complaint has been given against the President of Panchayat that he had used the said money. Purposely, the writ petitioner / appellant has taken a new stand that the President has taken the amount and utilised the same for his personal use. Hence, they prayed for dismissal of this writ appeal.



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6. This Court considered the rival submissions made on either side.

7. It is seen that only on the date of inspection, the respondents found that the writ petitioner / appellant has misappropriated the money and after the date of inspection only, he deposited the money. But according to the writ petitioner / appellant, the third respondent is holding the said amount and he utilized the same.

8. It is also admitted by the writ petitioner / appellant that he withdrew the sum of Rs.50,000/-. As a Panchayat Assistant, he should remit the same to the Panchayat account. Instead he remitted the same only after inspection, after a period of six months. This itself clearly amounts to misappropriation of panchayat money. The learned Single Judge of this Court only by considering the facts and circumstances of the case, has rightly dismissed the writ petition holding that this Court cannot go into the findings of the enquiry officer.



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9. Further, the writ petitioner / appellant has not shown any material to prove that the third respondent misappropriated the amount. The writ petitioner / appellant's explanation was also not satisfactory, as it was the third respondent, who brought to the knowledge of the District Collector that there was some misappropriation of fund. That being the case, the submission that the third respondent has misappropriated the money cannot be accepted. The enquiry officer has given him an opportunity to the writ petitioner / appellant, only for which, the writ petitioner / appellant has given his explanation and hence, the statement that the dismissal order has been passed in violation of principles of natural justice is not accepted.

10. In view of the aforesaid observations, this Court is not inclined to accept the case of the writ petitioner / appellant. It is the duty of the Panchayat Assistant to remit the amount to the Village Panchayat account and hence, the enquiry officer's finding that the writ petitioner / appellant has misappropriated the money has been proved. Hence, this Court does not any reason to interfere with the order of the learned



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Single Judge of this Court passed in the writ petition. The Writ Appeal therefore fails and it is accordingly dismissed. There will be no order as to costs.

(V.B.S.J.) & (K.K.R.K.J.)
22.02.2024

NCC :Yes/No
Index :Yes/No
Internet :Yes



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and
K.K. RAMAKRISHNAN, J.

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TO:-

- 1.The District Collector,
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- 2.The Block Development Officer,
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Judgment made in
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