



W.A.(MD)No.2452 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2024

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CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

and

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A.(MD)No.2452 of 2024

and

C.M.P.(MD)No.17116 of 2024

P.Thanga Andi

: Appellant

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Personal Assistant (Development) to the District Collector,
Madurai District,
Madurai.

3.The Block Development Officer (Panchayats),
Madurai West Panchayat Union,
Madurai – 625 002.

: Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent,
praying to set aside the order passed by this Court in W.P.(MD)No.
9757 of 2024 dated 06.08.2024.



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For Appellant : Mr.K.K.Kannan

For Respondents : Mr.Shaji Bino

Special Government Pleader

JUDGMENT

[Judgment of the Court was delivered by **M.S.RAMESH, J.**]

Challenging the order dated 06.08.2024 in W.P.(MD)No. 9757 of 2024, the appellant is before this Court with this Writ Appeal.

2.It is the case of the respondents herein that for the post of Panchayat Secretary, a pass in SSLC is an essential educational qualification and though the appellant was appointed on 01.11.1996, he had been reminded on several occasions to furnish his SSLC mark statement, which he had failed and therefore, he was placed under suspension through an order dated 27.12.2022, which came to be challenged by the appellant before the Writ Court in W.P.(MD)No.9757 of 2024. The respondents herein had taken a specific stand before the Writ Court that the appellant herein had produced some fake certificates before the authorities, which entries were recorded in his Service Register and therefore, he was placed under suspension and a charge memo was also issued on 07.02.2023. The learned Single Judge, while accepting the



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contention of the respondents, had recorded in his order dated 06.08.2024, that there are serious allegations against the petitioner with regard to production of fake SSLC certificate at the time of his appointment and therefore, dismissed the Writ Petition, with a direction to the authorities to conclude the domestic enquiry within a stipulated time. This order in the writ petition is under challenge in the present intra court appeal.

3.We have perused the appellant's suspension order dated 27.12.2022. In the recitals therein, it is claimed by the respondents that a pass in SSLC is an essential qualification for appointment to the post of Panchayat Secretary and though several reminders were given to the appellant to produce the SSLC certificate, he had failed to do so and therefore, had placed him under suspension.

4.Subsequently, three charges were levelled against the appellant herein through the charge memo dated 07.02.2023.

4.1.The first charge against the appellant herein is that from the year 2021 onwards, the respondents have been issuing several notices, calling upon the appellant to produce his SSLC certificate, to which he had not replied and when he was subjected to a preliminary enquiry, it was found that he had not completed his 10th standard, but had undergone a pre-foundation course, which is not the prescribed qualification for the post of a Panchayat



Secretary and therefore, he did not possess the essential educational qualification.

4.2.The second charge against him is that when enquiry was conducted, the appellant had submitted his explanation stating that he had failed in the 10th standard examination on two occasions in the year 1988 and 1992 and had later completed the pre-foundation course only in the year 2012, which is unacceptable.

4.3.The third charge against him is that in spite of specific orders of his superiors, the appellant had not responded to the directions and therefore, had not shown devotion and sincerity in his duties.

4.Neither the suspension order, nor the charge memo, narrates about the fake SSLC certificate allegedly given by the appellant to the authorities. On the other hand, such a claim appears to have been made, only in the counter affidavit filed by the respondents, before the Writ Court. It is only on the basis of this statement that the learned Single Judge had declined to entertain the writ petition. The relevant portion of the order passed in W.P.(MD)No.9757 of 2024, dated 06.08.2024, reads as follows:

“4.Per contra, the learned Counsel appearing for the respondents authority has contended that SSLC was a required mandatory qualification at the time of appointment of the writ petitioner as Panchayat Clerk and he had placed



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some fake certificate before the authorities to make entry in the Service Register book and therefore, the petitioner has been placed under suspension and charge memo has been issued. He further contended that explanation has also been submitted by the writ petitioner.

5.Considering the above said facts, that there is serious allegations as against the writ petitioner with regard to the production of fake SSLC mark certificates at the time of his appointment, this Court is not inclined to entertain the writ petition challenging the suspension order or the charge memo. However, considering the fact that the charge memo has been issued on 07.02.2023 and the petitioner has submitted his explanation on 20.02.2023, this Court directs the respondent authority to complete the enquiry on or before 31.12.2024.”

5.When it was not the case of the respondents that the appellant had submitted a fake SSLC certificate at the time of his appointment, both while issuing suspension order, as well as framing of charges, we are unable to comprehend as to how a new ground could be invented in the counter affidavit filed in the writ petition, in which the appellant had challenged the suspension order.



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6.If really the respondents were of the view that a fake certificate was submitted, they ought to have framed a specific charge to that effect, which is conspicuously absent in the charge memo dated 07.02.2023. Thus, the very ground on which reliance was placed by the learned Single Judge for rejecting the plea for rejection of the suspension order appears, to be on a distortion of facts presented by the respondents.

7.This apart, the impugned order may also require interference on the ground of prolonged suspension.

8.In the case of ***Ajay Kumar Choudhary Vs. Union of India*** reported in **(2015) 7 SCC 291**, it has been held that when the currency of the suspension order extends beyond three months and the memorandum of charges is served on the employee, a reasoned order must be passed for the extension of the suspension order.

9.In line with the decision of the Apex Court in ***Ajay Kumar Choudhary's*** case, this Court in several of its decisions had interfered with the suspension orders that were continued after three months. Ultimately, the Government in G.O.(Ms)No.81, Human Resources Management (N) Department, dated 04.08.2022, had adopted the findings of the Hon'ble Supreme Court in ***Ajay***



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Kumar Choudhary's case and had laid down guidelines. The guidelines were also in line with the said decision of the Hon'ble Supreme Court, by which, the review of the suspension order, for the purpose of its continuance was mandated.

10.In the instant case, the suspension order was passed on 27.12.2022 and the memorandum of charges were framed on 07.02.2023, which is within the period of three months as held above. However, when the currency of the suspension order extended beyond three months, a reasoned order for extension of suspension period was not passed by the respondents, which fact is not in dispute. On the other hand, the appellants suspension period continued for over almost 15 months, without any reasoned order for extension of the suspension period, which is contrary to the dictum laid down in **Ajay Kumar Choudhary's** case. On this ground also, the suspension order cannot be legally sustained.

11.For all the foregoing reasons, the order of suspension against the appellant herein cannot be sustained. Hence, the order in the writ petition in W.P.(MD)No.9757 of 2024, as well as the suspension order dated 27.12.2022 are set aside. Consequently, the respondents herein shall forthwith reinstate the appellant back into service, atleast within a period of one [1] week from the date of receipt of a copy of this order.



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12.Accordingly, this Writ Appeal stands allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[M.S.R.,J.] & [A.D.M.C.,J.]

29.11.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR



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JUDGMENT MADE IN
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