



W.P.(MD)No.8836 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.04.2025

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THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.8836 of 2025

and

W.M.P(MD)Nos.6605 to 6607 of 2025

V.Rajadurai

... Petitioner

Vs.

1.The Director,
Rural Development and Panchayat Raj,
Chennai 600 015.

2.The District Collector (Development),
Thanjavur District,
Thanjavur.

3.The Block Development Officer (VP),
Thiruvaiyaru,
Thanjavur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the second Respondent in Na.Ka.No.4927/2022/ Ka.4 dated 28.02.2025 and quash the same as illegal and consequently direct the respondents to reinstate the petitioner in service as Deputy Block Development Officer, within the period that may be stipulated by this Court.



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For Petitioner : Mr.M.Mohamed Zamil
For M/s.Ajmal Associates

For R1 & R2 : Mr.D.Sachi Kumar
Additional Government Pleader

For R3 : Mr.S.P.Maharajan
Special Government Pleader

ORDER

This writ petition has been filed against the order passed by the second respondent, dated 28.02.2025 and consequently direct the respondents to reinstate the petitioner in service as Deputy Block Development Officer.

2. The petitioner is working as Block Development Officer at the office of the Thiruvaiyaru Block Development Office, Thanjavur District. While so, a criminal case was registered in Crime No.2 of 2022 on the file of Vigilance and Anti Corruption, Thanjavur District. Subsequently, the petitioner was kept under suspension on 25.02.2022 by the second respondent. Aggrieved by the action of the respondents in not reviewing the suspension order even after three years and after submitting explanation to the charge memo, dated 16.06.2023, he submitted a representation to the respondents on 03.02.2025 to the respondents to review the suspension order. Against the inaction of the respondents in considering the representation, he filed writ petition in



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W.P.(MD)No.4203 of 2025 before this Court and the said writ petition was

disposed of by this Court vide order, dated 18.02.2025 directing the second respondent to consider and take appropriate decision on the representation of the petitioner, dated 03.02.2025 in accordance with law within a period of two months from the date of receipt of a copy of the order. In compliance of the said order, the second respondent issued proceedings, dated 28.02.2025 rejecting the representation of the petitioner. The reasons stated for rejection of the representation is that the criminal case registered against the petitioner is pending and till the disposal of the said criminal case, suspension order will be in force. The said order is impugned in this writ petition.

3. The learned counsel for the petitioner submits that the second respondent passed the impugned order without application of mind and without following the instructions issued by the State Government in G.O.Ms.No.81 Human Resources Management (N) Department, dated 04.08.2022. The learned counsel for the petitioner submits that though the petitioner submitted his explanation to the charge memo, dated 16.06.2023 and an enquiry officer was not appointed till date. The disciplinary proceedings are not concluded. The learned counsel for the petitioner further contends that it is settled law that the



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disciplinatory proceedings and criminal proceedings are different. The WEB disciplinatory authority has to act independently to conclude the disciplinatory proceedings.

4. On the other hand, the learned Additional Government Pleader for the respondents 1 and 2 submits that the impugned order is passed based on the instructions issued by the State Government in Letter No.13519/N/2015-1, dated 23.07.2015, wherein, it is stated that time limit of three months on suspension cases specified therein, are applicable only to the suspension cases arising out of departmental disciplinary enquiries pertaining to non-vigilance or any non-criminal cases. In the present case, criminal case was registered by the Vigilance and Anti Corruption Department and it is pending in the competent criminal Court and as such, the respondents are waiting for the order of the criminal Court to proceed further. The learned Additional Government Pleader contends that there is no infirmity or illegality in the order impugned in this writ petition.

5. Having heard the submissions of the respective learned counsels and on careful consideration of the impugned order, it reveals that the instruction issued by the State Government in Paragraph No. 11(xi) of G.O.Ms.No.81



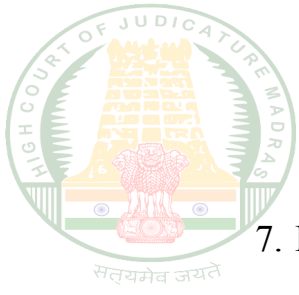
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Human Resources Management (N) Department, dated 04.08.2022 are not

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strictly followed. It is provided that in cases where the charge in the criminal case involves complicated questions of law and fact and the disciplinary authority is not in a position to finalize the departmental disciplinary proceeding and if the criminal case is based on the vigilance report and is pending before the Court of law for which no reasons are explained explicitly, the authority competent may take a decision by taking up review of suspension and post the Government Servant in a non-sensitive post in consultation with the appropriate investigating authority/vigilance Commission on case to case basis in view of the reason that prolonged suspension and paying subsistence allowance for a long period without extracting work is not at all acceptable.

6. Admittedly, in the present case, the second respondent failed to consider these instructions properly. Mere pendency of criminal case is not a ground for not concluding the disciplinary proceedings or for not reviewing the suspension order. The competent authority has to act independently while dealing with the disciplinary proceedings. As such, in our considered view, the order impugned in this writ petition is un-sustainable under law and it is liable to be set aside.



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7. For the reasons stated above, this writ petition is disposed of with the

following directions:

1. The order impugned in this writ petition is hereby set aside and the matter is remanded back to the second respondent to pass orders afresh.

2. The second respondent shall pass orders afresh by considering the representation of the petitioner to review the suspension order and post in any non-sensitive post taking into consideration of Paragraph No.11(xi) of G.O.Ms.No.81 Human Resources Management (N) Department, dated 04.08.2022 within a period of four weeks from the date of receipt of a copy of this order.

No costs.

Consequently, the connected miscellaneous petitions are closed.

01.04.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
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BATTU DEVANAND, J.

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