

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2010

CORAM

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.NO.5854 OF 2010
AND M.P.NO.1 OF 2010

R.Arumainathan

... Petitioner

Versus

1.The District Collector
Villupuram District, Villupuram.

2.The Personnel Assistant to District Collector
Villupuram District, Villupuram.

3.The Block Development Officer
Village Panchayat, Olakkur Panchayat Union,
Olakkur, Saram,
Tindivanam Taluk.

4.The President
Venmaniyathur Panchayat
Venmaniyathur, Tindivanam Taluk.

5.The President
Neikuppi Panchayat
Neikuppi, Tindivanam Taluk.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of writ of mandamus, directing the 4th respondent to implement the order dated 13.11.2009 passed by the 2nd respondent and thereby direct the 4th respondent to allow the petitioner to join as Panchayat Assistant at Venmaniyathur Panchayat, Tindivanam Taluk and also direct the 4th respondent to pay salary arrears and other benefits from December 2009 to the petitioner.

For Petitioner	:	Mr.N.Suresh
For Respondents 1&2	:	Mrs.Lita Srinivasan Government Advocate
For Respondent 3	:	Mr.K.Balasubramanian
For Respondent 4	:	Mr.D.Ravichandran
For Respondent 5	:	Mr.P.Anbazhagan

O R D E R

The petitioner was employed as a Panchayat Assistant in the fifth respondent Panchayat. He was transferred by the second respondent, by an order dated 13.11.2009, from the fifth respondent Panchayat to fourth respondent Panchayat. However, the fourth respondent Panchayat did not permit him to join the office. This forced the petitioner to file the present writ petition seeking for a direction to the fourth respondent to implement the order dated 13.11.2009 of the second respondent and also for a direction to pay him salary arrears and other benefits from December 2009.

2. Notice of motion was ordered on 24.03.2010. Respondents 3 and 4 filed counter affidavits. The third respondent also filed additional counter affidavit dated 30.08.2010.

3. Heard the submissions made on either side and perused the materials available on record.

4. It is not in dispute that the petitioner was transferred by the second respondent vide proceedings dated 13.11.2009, from fifth respondent Panchayat to fourth respondent Panchayat. The petitioner has no other option, but to obey the transfer order. However, the fourth respondent refused permission to the petitioner to join the office of the fourth respondent.

5. It is stated in the counter affidavit filed by the fourth respondent that there are so many complaints against the petitioner while he served in the fifth respondent Panchayat and that therefore, the fourth respondent is not willing to permit the petitioner to join the office of the fourth respondent. It is also stated that one Mr. Balasubramanian was already posted by an order dated 05.05.2010 of the third respondent. Since Mr. Balasubramanian is working in the fourth respondent Panchayat, the petitioner could not be permitted to join the office.

6. On the other hand, it is stated in the additional counter affidavit filed by the third respondent that proposals have been submitted to the first respondent vide letter dated 28.07.2010 to transfer Mr. Balasubramanian to his previous station of Panchalam Panchayat. The learned counsel for the third respondent also produced the file, wherein Mr. Balasubramanian sought request to transfer to Panchalam Panchayat.

7. As already stated above, the fourth respondent is not justified in not permitting the petitioner to join the office. If the fourth respondent has any grievance, he should address the same to the respondents 1 and 2, seeking transfer of the petitioner. On the other hand, the fourth respondent refused permission to the petitioner to join the office. This resulted in an unfortunate

position where the petitioner is without any work and he has also not been paid wages from November 2009. Mr.Balasubramanian was posted to the fourth respondent Panchayat only in May 2010 and that could not be the reason for not permitting the petitioner to join duty in November 2009.

8.In the additional counter affidavit filed by the third respondent, it is stated that proposals have been sent to the first respondent for transferring Mr.Balasubramanian from the fourth respondent Panchayat to Panchalam Panchayat. They have also produced the file, wherein Mr.Balasubramanian sought request transfer to Panchalam Panchayat.

9.In these circumstances, the fourth respondent is directed to permit the petitioner to join office forthwith. The respondents 1 and 2 are directed to secure wages to the petitioner from the date of his transfer, to the date of his joining in the fourth respondent - Panchayat. The first respondent is directed to pass orders transferring Mr.Balasubramanian to Panchalam Panchayat, based on the proposals sent by the third respondent, within a week from today.

10.The writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst. Registrar

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Sub Asst.Registrar

TK

To

- 1.The District Collector
Villupuram District,
Villupuram.
- 2.The Personnel Assistant to District Collector
Villupuram District, Villupuram.
- 3.The Block Development Officer
Village Panchayat, Olakkur Panchayat Union,
Olakkur, Saram, Tindivanam Taluk.

4.The President
Venmaniyathur Panchayat
Venmaniyathur, Tindivanam Taluk.

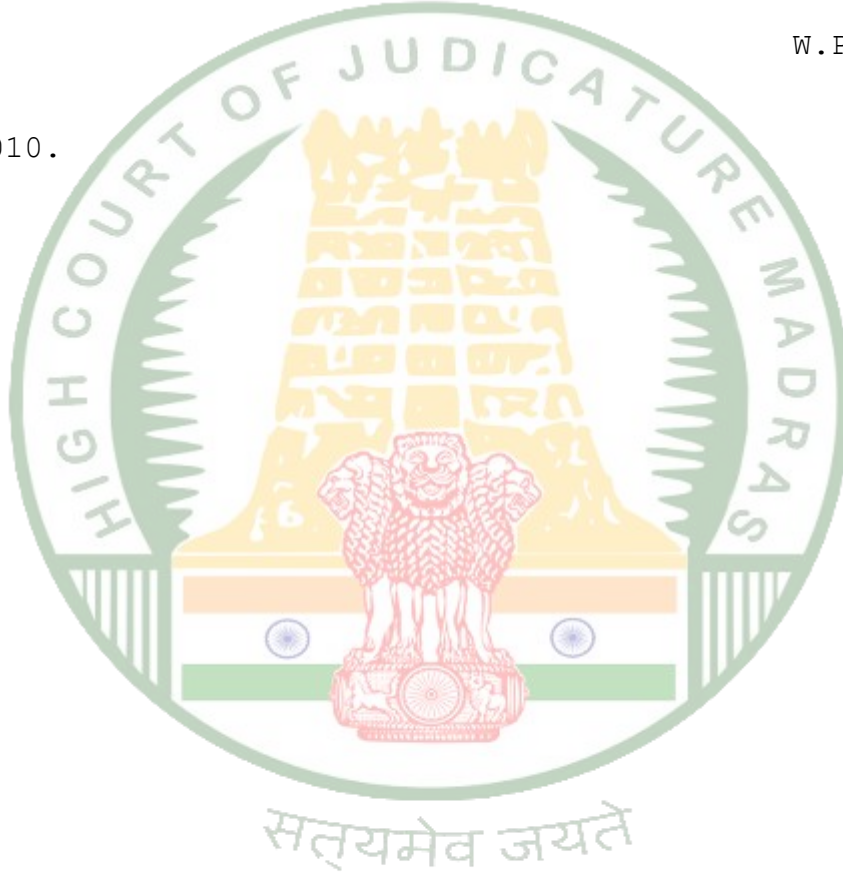
5.The President
Neikuppi Panchayat
Neikuppi, Tindivanam Taluk.

1 cc to Mr.K.Balasubramaniam, Advocate, Sr.No.64348

1 cc to Mr.N.Suresh, Advocate, Sr.No.64542

W.P.NO.5854 OF 2010

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TP/31.8.2010.



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