

(2014) 03 MAD CK 0094

In the Madras High Court

Case No : Writ Petition No. 6962 of 2007 and O.A. No. 4196 of 2002

K. Balasubramanian

APPELLANT

Vs

The District Collector, The Divisional Development Officer and
The President, Velampoondi Panchayat Moolanur Panchayat
Union

RESPONDENT

Date of Decision : 05-03-2014

Acts Referred:

Citation : (2014) 03 MAD CK 0094

Hon'ble Judges : Krishna Ballabh Narayan Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

K.B.K. Vasuki, J.—Heard both sides.

2. The petitioner has in this writ petition challenged the order, terminating him from service, passed by the first respondent/District Collector, Erode. The petitioner joined as Assistant on 30.10.1988 in Punjai Thalaiyur Panchayat Union and continued upto 11.8.1998 and thereafter was transferred to Velampoondi Panchayat on 12.8.1998. The petitioner was admittedly on medical leave from 4.2.1999 to 29.5.1999 and he absented from duty, after expiry of his medical leave.

3. While according to the learned counsel for the petitioner, the petitioner appeared for joining duty on 29.5.1999 by submitting his representation to the President, Velampoondi Panchayat, but no posting order was issued, according to the learned counsel for the respondents, the petitioner absented unauthorisedly from duty on his own. All of sudden, the petitioner was on 28.2.2002 served with the order of termination passed by the first respondent, which is impugned herein.

4. The learned counsel for the petitioner contended that after the petitioner reported for duty on expiry of medical leave, he was directed to clear the

accounts of revenue collection and also asked to deposit the arrears of land revenue collected by him and accordingly he settled the accounts on 3.1.2000 and was waiting for posting order to be issued. The petitioner was not issued with any posting order, inspite of the recommendation of Block Development Officer and he was compulsorily kept away from service for the period mentioned in the impugned order.

5. However, the impugned order, terminating the petitioner from service, came to be passed on two grounds: (i) revenue collected during his period of service in Punjai Thalaiyur Panchayat Union was not immediately brought into account and the same was thereafter collected and brought into account; and (ii) he was unauthorisedly absent from 29.5.99 onwards.

6. It is not in dispute that the impugned order was not preceded by any show cause notice or charge memo or domestic enquiry by the department. Without doing so, the petitioner was terminated from service for temporary misappropriation of amount and for the alleged act of unauthorised absent from duty. Had any show cause notice been served and charge memo been issued, the petitioner would have been able to submit his detailed explanation about his stand in this regard. Had the departmental enquiry been conducted, he would have been able to defend himself in the same so as to discharge him from the charges levelled against him. The failure to do so has deprived the petitioner from availing his right to defend himself against the charges levelled against him and the same vitiates the termination order, which is impugned herein. On this score alone, the impugned order is liable to be set aside.

7. In the result, the writ petition is allowed by setting aside the order dated 28.2.2002 passed by the first respondent. The respondents are directed to reinstate the petitioner with continuity of service and without back wages. The said exercise shall be completed within a period of four weeks from the date of receipt of the copy of this order.