

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2015

Coram

The Hon'ble Mr. Justice D.HARIPARANTHAMAN

W.P.No.23069 of 2015

and

M.P.No.1 of 2015

K.M.V.Manivannan

.. Petitioner

Vs.

1.The Government of Tamil Nadu rep. by
Principal Secretary to Government,
Micro, Small and Medium Enterprises
Department, Fort St. George,
Chennai - 9.

2.The Director of Industries and Commerce,
South Canal Bank Road,
Manddhavelippakkam,
Raja Annamalaipuram,
Chennai - 28.

3.The Additional Director of Industries
& Commerce (Rural Projects),
South Canal Bank Road,
Manddhavelippakkam,
Raja Annamalaipuram,
Chennai - 28.

4.G.Sundaramurthy I.A.S. (Retd.)

5.E.M.Joseph Ravi Devasahayam

.. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus calling for the records of the first respondent issued in G.O.(2D) No.19 Micro, Small and Medium Enterprises (EII(2)) Department dated 16.10.2014 confirming the order issued in G.O.(2D)No.25, Micro Small and Medium Enterprises(EII(2)) Department dated 25.06.2013 and quash the same and issue a consequential direction to the first respondent to drop the proceedings.

For Petitioner

..

Mr.R.Saseetharan

For Respondents

..

Mr.S.Gunasekaran,

Govt. Advocate for R1 to R3

ORDER

The petitioner is a Joint Director (Industrial Co-operative)/ Managing Director in Salisbury Industrial Co-operative Tea Factory Limited, Gudalur. Disciplinary proceedings under Rule 17 (b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules were initiated against him on 21.06.2010 and fourteen charges were made. Among the 14 charges, Charge Nos.2, 7 and 9 were held as proved and Charge No.10 was held as partly proved.

2.The petitioner gave his representation on the findings. Thereafter, impugned Government Order in G.O.(2D) No.25 Micro, Small and Medium Enterprises (EII(2)) Department dated 25.06.2013 was passed imposing the punishment of stoppage of increment for a period of two years with cumulative effect. Though the order runs to 32 pages, it is nothing but reproduction of charges, explanation and the findings. The only reasoning is found in para 7 and para 7 is extracted hereunder:

"7.The Government have examined the charges framed. Defence statement of the delinquent officer, findings of the inquiry officer and the further representation of the delinquent officer on the findings of the inquiry officer carefully and independently along with relevant original records and decided to impose a punishment of stoppage of increment for a period of two years with cumulative effect on Thiru.K.M.V.Manivannan, Joint Director for the proven charges and orders accordingly."

3.I do not find any reason in para 7. It is well settled that even administrative authorities are bound to give reasons particularly, when the order results in civil consequences. The Apex Court in *Kranti Associates Pvt. Ltd. and Another V. Sh.Masood Ahmed Khan and Others*, reported in (2010) 9 SCC 496 held that the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially and has formulated certain principles in paragraph 47 of its judgment, and the relevant portion is extracted hereunder :

"47. Summarizing the above discussion, this Court holds:

a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially."

4.The review preferred to the Government also was rejected by order in G.O. (2D) No.19 Micro, Small and Medium Enterprises (EII(2)) Department dated 16.10.2014. The review petition also did not consider the issue in detail. Para 5 of the order alone is on merits and the same is extracted hereunder:

"5.The Government have examined the review petition of

Thiru.K.M.V.Manivannan, Joint Director (Industrial Co-operatives) carefully and independently with relevant original records along with the views of the Tamil Nadu Public Service Commission and have decided to reject the Review Petition of Thiru.K.M.V.Manivannan, Joint Director (Industrial Co-operatives)/formerly Special Officer, TAICO Bank, Chennai against the punishment of stoppage of increment for two years with cumulative effect imposed in the Government Order second read above as devoid of merits and issue orders accordingly."

5.Since both the punishment order as well as the order passed in review petition did not contain any reasons, those orders are set aside and the matter is remanded back to the Government viz., the first respondent to pass a speaking order on the punishment by considering the enquiry report, the explanation submitted by the petitioner and the entire records, within a period of twelve weeks from the date of receipt of a copy of this order.

6.The writ petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

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To

1.The Principal Secretary to Government,
Micro, Small and Medium Enterprises
Department, Fort St. George, Chennai - 9.

2.The Director of Industries and Commerce,
South Canal Bank Road, Manddhavelippakkam,
Raja Annamalaipuram, Chennai - 28.

3.The Additional Director of Industries
& Commerce (Rural Projects),
South Canal Bank Road,
Manddhavelippakkam,
Raja Annamalaipuram,
Chennai - 28.

1 cc to Government Pleader.Sr.No.39071/15

W.P.No.23069 of 2015

sr(Co)pmk.14.8.2015