

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.2.2015

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Writ Petition No. 28072 of 2014

K.Shanmugam

... Petitioner

Vs.

1. The Principal Secretary/
Commissioner of Revenue Administration
Chepauk, Chennai -5
2. The District Collector
Krishnagiri District
3. The Special District Revenue Officer(LA)
NH - 7, 46, 47 and 66
Krishnagiri District @ Krishnagiri

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorarified mandamus calling for the records relating to the second respondent vide his proceedings No.ROC.19204/14/A dated 22.8.2014 and to quash the same and consequently direct the second respondent to reinstate the petitioner in service.

For Petitioner : Mr. S.Vijayakumar
For Respondents : Mr.M.S.Ramesh
Addl. Govt. Pleader

O R D E R

The petitioner challenges the suspension order dated 22.8.2014 issued by the District Collector, Krishnagiri on the ground that action was not taken to review the suspension in spite of making a request along with valid reasons for such review.

2. While the petitioner was working as Deputy Tahsildar, the third respondent initiated Disciplinary Proceedings by issuing Charge Memo dated 01.10.2010. The Disciplinary Authority, ultimately passed an order of punishment of stoppage of increment for three months without cumulative effect by order dated 30.7.2012. The said order was challenged before the first respondent.

3. While so, the petitioner filed a writ petition in

WP.No.405 of 2014 before this Court to include his name in the panel for promotion to the post of Tahsildar for the year 2013. The writ petition was disposed of by order dated 04.2.2014. Since the respondents failed to comply with the directions issued by this Court, the petitioner filed a contempt petition bearing No.2154 of 2014. The respondents in the meantime filed a Review Petition No.280 of 2014 to review the order dated 04.12.2014 in Writ Petition No.405 of 2014. During the currency of the Review Petition and the Contempt Petition, the second respondent issued the impugned order of suspension. Subsequently, the Review Petition was dismissed.

4. According to the petitioner, the impugned order of suspension was issued only on account of initiation of contempt proceedings by him against the District Collector. The petitioner has taken up a further contention that even the allegations contained in the impugned order would not be sufficient either to initiate proceedings under Section 17 B of the Tamil Nadu Civil Services (Discipline and Appeal) Rules or to place the employee under suspension. The petitioner therefore challenges the order both on the ground of malafides as well as prolonged suspension.

5. The learned counsel for the petitioner contended that it was only on account of the contempt proceedings initiated by the petitioner, the second respondent suspended the petitioner. According to the learned counsel, the incident in question took place in the year 2011 and for the said purpose, suspension order was passed on 22 August, 2014. The learned counsel further submitted that the Hon'ble Supreme Court deprecated the practice of keeping the employee under suspension without initiating further proceedings.

6. I have also heard the learned Additional Government for the respondents.

7. The petitioner has produced string of documents in support of his contention that he has been targeted by the respondents on account of his initiation of contempt proceedings. Even though the incident referred to in the order impugned in this writ petition took place in the year 2011, the second respondent has chosen to suspend the petitioner only in the year 2014 and that too, during the currency of the Review Petition filed to review the order in WP.No.405 of 2014. The petitioner appears to have submitted a representation as early as on 08.9.2014 requesting the second respondent to review the suspension. However, follow up action was not taken by the second respondent.

8. The petitioner was placed under suspension pending initiation of Disciplinary Proceedings. It is a matter of record that till date, Charge Memo has not been issued to the petitioner.

In case, the second respondent is of the view that appropriate Disciplinary Proceedings should be initiated against the petitioner and he should be placed under suspension till the disposal of such proceedings, effort should have been taken to issue charge memo immediately after passing the impugned order. However, no such effort was taken by the second respondent. The petitioner is prima facie correct in his contention that he is made to suffer on account of the inaction on the part of respondents. I am therefore of the view that the matter requires consideration by the second respondent.

9. The second respondent is directed to consider the representation dated 08.9.2014 submitted by the petitioner for the purpose of review of suspension. While considering the representation for review, the District Collector should take into account the earlier proceedings initiated against the petitioner and the observation made in this order. Such exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

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

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

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To

1. The Principal Secretary/
Commissioner of Revenue Administration
Chepauk, Chennai -5

2. The District Collector
Krishnagiri District

3. The Special District Revenue Officer(LA)
NH - 7, 46, 47 and 66
Krishnagiri District @ Krishnagiri

+1cc to Mr.S.VijayaKumar, Advocate, S.R.No.10328
+1cc to the Government Pleader, S.R.No.10602

W.P.No.28072 of 2014

VD(CO)
CA(10/03/2015)