IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2015

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.NO. 33364 OF 2007
and
M.P. No.1 of 2007

G. Karpagam .. Petitioner

Vs.

1. The Special Commissioner and
   Commissioner for Revenue Administration
   Chennai - 600 005.

2. The District Revenue Officer
   Villupuram District.

3. The Revenue Divisional Officer,
   Thirukoilur

4. The Tahsildar
   Thirukoilur ... Respondents

PRAYER: Petition has been filed under section 226 of the Constitution of India to issue an order of Writ of Certiorari, to call for the records on the file of the 1st respondent in its proceedings Na. Ka. Service 4(2)/ 108324/05 dated 09.02.2007 and quash the same as illegal and incompetent.

For petitioner : Mr. V. Raghavachari
For respondents: Mr. K.V. Dhanapalan, AGP

ORDER

This Writ Petition has been directed against the impugned order passed by the first respondent, the Special Commissioner and Commissioner for Revenue Administration, Chennai in his proceedings Na. Ka. Service 4(2)/ 108324/05 dated 09.02.2007 in and by which the Revisional Authority, agreeing with the case of the petitioner that some of the documents crucial for deciding the correctness of the case have not been served to the petitioner and that the petitioner was not provided with fair and reasonable opportunity and that the entire enquiry proceedings have not been properly conducted and hence directed the disciplinary authorities to conduct an enquiry afresh by giving a reasonable opportunity to the petitioner.

2. Mr. V. Raghavachari, learned counsel appearing for the petitioner drawing the notice of this Court to the findings given by learned Judicial Magistrate, Thirukovilur in C.C. No.196/2005 dated 19.11.2010, submitted that for the same set of charges levelled against the petitioner, it has been held in favour of the petitioner that no charges are proved and as the allegation of misappropriation has not been established, the initiation of departmental proceedings on the same set of charges cannot be allowed to happen and on this basis, prayed for interference of the impugned order.

3. In the light of the order dated 19.11.2010 passed by learned Judicial Magistrate, Thirukovilur, if the impugned order of remand passed by the first respondent is allowed to stay, the petitioner who has been facing mental agony from the date of issuance of charge memo, far back on 24.12.2003, would not only be put to more grave injustice but would also be loosing all avenue of promotions. On this basis also, prayed for interfering with the impugned order.

4. Opposing the above prayer, learned Additional Government Pleader appearing for the respondents, in support of the impugned order would submit that the standard of proof required to be discharged before the criminal Court is beyond all reasonable doubt, whereas in the departmental proceedings, the degree of proof required is only preponderance of probability. Therefore, in the present case, the petitioner, by obtaining an order of acquittal on benefit of doubt, is not entitled to set at naught the findings reached in the departmental proceedings.

5. Accepting his submission, this Court is not inclined to interfere with the order of the revisional authority, for the reason that the District Revenue Officer, Villupuram, after hearing the petitioner on 17.10.2005, passed a final order in No.A2.430392/03 dated 22.10.2005 withholding the increment of the petitioner with cumulative effect. Aggrieved by the same, he has filed an appeal before the Special Commissioner and Commissioner of Revenue Administration, Chennai on 16.12.2005. The Special Commissioner and Commissioner of Revenue Administration, Chennai, after perusing the records, cancelled the order of the District Revenue Officer, Villupuram for the following procedural irregularities and remanded the case for fresh action:-

1) The questionnaire form has not been supplied to the delinquent official along with memo of charge.

2) The Personal Assistant to Revenue Divisional Officer who is competent to scrutinize the file for the orders of Revenue Divisional Officer has been appointed as Enquiry Officer and this appointment of Enquiry Officer is not proper.

3) The Enquiry Officer has not enquired all the 19 complainants shown as witness in Annexure IV of the charge memo in the presence of the delinquent official and has not given am opportunity to the delinquent official to cross examine the prosecution witness.

After the order was passed by the Special Commissioner and Commissioner of Revenue Administration on 9.2.2007, fresh enquiry was initiated by the District Revenue Officer, Tirukkoilur. But the petitioner, keeping quiet for eight months, has filed the present writ petition and obtained an order of stay. When the Special Commissioner and Commissioner of Revenue Administration in the impugned order dated 9.2.2007 directed fresh enquiry to be undertaken, this Court finds no merits in the writ petition. However, this Court taking note of the order passed by learned Judicial Magistrate, Thirukovilur in C.C. No.196/2005 dated 19.11.2010, hereby directs the disciplinary authority to expedite the pending enquiry, as it is pending from 2003, complete the enquiry and pass appropriate orders by keeping in mind the reasoning given by learned Judicial Magistrate, Thirukovilur, preferably within a period of four months, from the date of receipt of a copy of this order. It is made clear that the disciplinary authority shall proceed with the matter independently on merits without being influenced by any of the observations made in this order.

6. Accordingly, the Writ Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The Special Commissioner and
Commissioner for Revenue Administration
Chennai - 600 005.

2. The District Revenue Officer
Villupuram District.

3. The Revenue Divisional Officer,
Thirukoilur

4. The Tahsildar
Thirukoilur.

+1 cc to The Government Pleader,SR.9970

+1 cc to Mr.V.Raghavachari, Advocate,SR.9893.

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