



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) No.14082 of 2015
and M.P. (MD) No. 1 of 2015

M.Chinnappan

... Petitioner

Vs.

1.The Managing Director,
TNCSC No.12, Tambusami Road,
Kilpauk, Chennai - 10.

2.The Senior Regional Manager,
Tamilnadu Civil Supply Corporation,
Thanjavur Region,
Thanjavur.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the impugned proceedings in Se.mu.AA.No.AD2/ 106539/2011 dated 18.06.2013 passed by the first respondent and quash the same and to pass such further or other order as this Court may deem fit and proper in the circumstances of the case.

For Petitioner ... Mr.K.Samidurai

O R D E R

This Writ Petition has been filed by M.Chinnappan seeking for issuance of writ of Certiorarified Mandamus to quash the impugned proceedings in Se.Mu.AA.No.AD/106539/2011 dated 18.06.2011 passed by the first respondent.

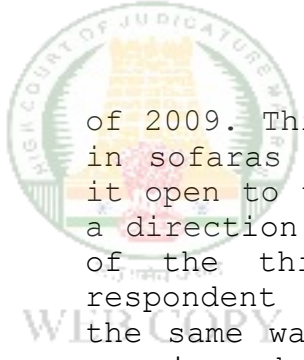
2. With consent, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. Heard the learned counsel appearing of the petitioner.

4. The brief facts of the case are as follows:

i) The petitioner was appointed as Junior Assistant in the respondent Corporation on 22.10.1984. Subsequently, he was promoted to the post of Assistant and then, he was promoted to the post of Superintendent.

ii) While so, it is pleaded, since the petitioner was raising voice against the corruption practices and exposed the same, a false complaint has been filed against the petitioner hence, on that basis, the petitioner was suspended on 10.08.2009. Challenging the suspension order dated 10.08.2009, the petitioner came to this Court by filing W.P.No.8412



of 2009. This Court, by order dated 13.04.2010, allowed the Writ Petition insofar as it relates to the impugned order of suspension alone leaving it open to the petitioner to work out his remedy in respect of prayer for a direction against the second respondent to implement the advisory notes of the third respondent dated 26.06.2009. Subsequently, the second respondent filed an appeal before this Court in W.A.No.409 of 2010 and the same was dismissed on 25.08.2010. In the meanwhile, the petitioner was issued with charge memo on 16.10.2009 for the said false complaint and the final order has been passed on the said charge memo holding that charges are totally false.

iii) Thereafter, the second respondent-the Senior Regional Manager, Tamilnadu Civil Supply Corporation, Thanjavur Region, has passed the impugned punishment of stoppage of increment for two years with cumulative effect on the basis of a false second charge memo dated 22.03.2010 for the reason that the petitioner was a whistle blower and the activities of the petitioner to curb the corruption seriously affected the authorities concerned. Presently, the petitioner is working as the Assistant Manager at Nagapattinam.

iv) The cause of action for initiation of departmental proceedings against the petitioner is that when one of the employees suffered punishment of stoppage of increment for two years with cumulative effect by order dated 09.10.1997, the petitioner, at the relevant point of time, inadvertently has recorded the said punishment in the Service Register of the delinquent as only stoppage of increment for two years without cumulative effect. Subsequently, when that was noticed by the disciplinary authority, they have issued Show Cause Notice against the petitioner on 22.03.2010. Thereafter, the departmental proceedings came to an end and the petitioner was imposed with the punishment of stoppage of increment for two years with cumulative effect. The petitioner has preferred an appeal before the first respondent-the Managing Director, TNSCC, who has confirmed the punishment of stoppage of increment for two years with cumulative effect passed by the second respondent by dismissing the appeal. As against the same, the present writ petition has been filed before this Court.

4. Mr.K.Samidurai, learned counsel appearing for the writ petitioner submitted that the second respondent-the Senior Regional Manager, Tamilnadu Civil Supply Corporation, Thanjavur Region, has passed the impugned punishment of stoppage of increment for two years with cumulative effect on the basis of a false second charge memo dated 22.03.2010 for the reason that the petitioner was a whistle blower and the activities of the petitioner to curb the corruption seriously affected the authorities concerned.

5. The learned counsel appearing for the petitioner further submitted that when the alleged occurrence took place in the year 1997, the respondent ought to have issued a charge memo earlier, but, the charge memo was issued on 22.03.2010. For that reason, the petitioner was not in a position to give suitable explanation, which violates the principles of natural justice. Secondly, it is further submitted that as there has been a huge delay of 13 years in issuing the charge memo the same vitiates the entire proceedings in as much as delay in issuing any belated charge memo is unsustainable in law.



6. The learned counsel appearing for the petitioner would further submit that fixing the responsibility only on the petitioner, who served as Junior Assistant leaving the Superintendent, the Assistant Manager (Administration), the Deputy Manager(A/C) and the Sub Regional Manager, Thanjavur, on the ground that the petitioner is the only person who made an entry with regard to the punishment of stoppage of increment without recording the full punishment namely, with cumulative effect imposed against the person is concerned, the respondent has arbitrarily chosen to initiate departmental proceedings only against the petitioner and such a discriminative approach meted against the petitioner is liable to be interfered with.

7. This Court has carefully considered the submissions and perused the materials.

8. As I mentioned earlier, the petitioner has raised three grounds. Firstly, there is an inordinate delay in issuing the charge memo. Secondly, when there has been delay of 13 years in issuing the charge memo, the long delay vitiates the entire proceedings. Thirdly, the petitioner alone has been arbitrarily chosen for facing the departmental proceedings, when several other persons namely, the Superintendent, the Assistant Manager(Administration), the Deputy Manager(A/C) and the Sub Regional Manager, Thanjavur, who are all responsible for verification of the Service Register are left out.

9. This Court finds no justification whatever in the impugned proceedings for the simple reason that when the petitioner was serving in the same Department, he miserably failed to discharge his duty by recording the punishment imposed against one delinquent officer namely, the punishment of stoppage of increment for two years with cumulative effect in his service records. In fact, instead of recording the correct punishment viz. the stoppage of increment for two years with cumulative effect, he wrongly omitted the word 'with cumulative effect'. This has been noticed by higher officials belatedly, therefore, the contention that there is a delay in issuing a charge memo is totally unfounded. Subsequently, on further verification, the allegation of arbitrariness and discrimination also may not put against the Department for the simple reason that the petitioner alone has recorded the punishment of stoppage of increment for two years without cumulative effect, for which the Superintendent, the Assistant Manager(Administration), the Deputy Manager (A/C) and the Sub Regional Manager, Thanjavur may not be aware of the remarks made by the petitioner in the Service Records of the delinquent officer. Therefore, finding no merits from any angle, this writ petition deserves to be dismissed.

10. In the result, this Writ Petition is dismissed. No costs. Consequently, connected M.P(MD) No. 1 of 2015 is also dismissed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub-Assistant Registrar



To

1.The Managing Director,
TNCSC No.12, Tambusami Road,
Kilpauk, Chennai - 10.

2.The Senior Regional Manager,
Tamilnadu Civil Supply Corporation,
Thanjavur Region,
Thanjavur.

+1 cc to MR.Gnanagurunathan, ADVOCATE, SR No.11730

SH/GSV-PM:19.10.15/4P-4C

Order made in
W.P. (MD) No.14082 of 2015
and M.P. (MD) NO. 1 of 2015
Dated:07.08.2015