BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2015

Coram

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.(MD)No.16610 of 2015
and
M.P.(MD)Nos.1 and 2 of 2015

P.Venkateswaran :Petitioner

vs.

1.The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
Secretariat,
Chennai - 600 009.

2.The District Collector,
Thanjavur District,
Thanjavur. : Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorari, to call for the records pertaining to the impugned Charge Memo No.13545/Ser-2(2)/2012-2, dated 18.09.2012, on the file of the respondent No.1 and the consequential order in imposing punishment in G.O.No.(1D)No.315 Revenue Service 2(2) Department, dated 09.07.2015, on the file of the Respondent No.1 and quash the same as illegal.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.J.Gunaseelan Muthiah
Govt.Advocate

O R D E R

This Writ Petition has been filed by Mr.P.Venkateswaran, challenging the Charge Memo No.13545/Ser-2(2)/2012-2, dated 18.09.2012, issued by the Secretary to Government, Revenue Department, Chennai, the 1st respondent herein and the consequential order of punishment imposing stoppage of increment for three years with cumulative effect in G.O.No.(1D)No.315 Revenue Service 2(2) Department, dated 09.07.2015 and quash the same.

2. The learned counsel appearing for the petitioner submitted that when the petitioner was recruited as Junior Assistant in 1997 and posted at Taluk Supply Office at Orathanadu, Thanjavur District, considering his performance, he was promoted as Assistant in the year 2000. Thereafter, again he was given further promotion to the post of Deputy Tahsildar in 2009 and posted as Head Assistant in the cadre of Deputy Tahsildar at the Office of the Collectorate, Thanjavur. Subsequently, when he was posted as Additional Head Quarters Deputy Tahsildar at Taluk Office,

Thanjavur, he was directed to attend the enquiry tobe conducted by the Assistant Settlement Officer (North), Chennai along with the Surveyor and V.A.O., on 23.01.2012 on the matter concerning Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, in respect of the property at T.S.No.21, Block 61, Ward No.4 of Neelagiri Therkkuthottam Village in Thanjavur District. Since he has received a direction from the Tahsildar, Thanjavur, to attend the enquiry at Chennai, in respect of an issue relating to grant of patta in favour of one Nepolian S/o.Xavier, in survey No.21, falling in Block No.6, Ward No.4, having an extent of 17424 Sq.feet., he appeared in the said enquiry. The petitioner had attended the enquiry, that too, as per the direction of the Tahsildar., for which he was issued with a charge memo containing six charges. However, the charge No. 1, 2, 4 and 5 are found not proved.

3. The petitioner attended the enquiry and explained that he cannot be held responsible for participating in the inquiry in respect of grant of patta in favour of Nepolian S/o.Xavier in respect of Survey No.21, falling in Block No.6, Ward No.4. The enquiry officer found him guilty in respect of Charge Nos.3 and 6. However, the enquiry officer found him not guilty in respect of charges 1, 2, 4 and 5. Although the petitioner in his further representation has made it clear that the findings recorded against the petitioner in respect of charge Nos.3 and 6 cannot stand to legal scrutiny, since the letter in D.C.Rc.K1/36249/06, dated 14.02.2011 and another letter issued by the District Revenue Officer in No.D.O.R.C.No.11071/2011/E3, dated 23.02.2011 were not available. That apart, they were not even brought to the notice of the petitioner, therefore, the question of having acquaintance with the said two letters, which state that no patta should be issued, cannot be put against the petitioner. These two documents were given to the petitioner prior to the enquiry proceedings. The respondent could be justified in proceeding against the petitioner on the ground that inspite of these two documents, the petitioner has supported the case of Nepolian S/o.Xavier for issuance of patta of the land covered in Survey No.21 in Block No.6, Ward No.4 in having a worth of Rs.1,74,24,000/- and these documents, at no point of time were put to the notice of the petitioner. The charge Nos.3 & 6 held proved against the petitioner also can never be sustained.

4. But this Court is not able to see any merit in the said submission. The reasons is, the petitioner has been found to be a suitable person to assist the enquiry officer with regard to an issue of grant of patta of a land covered in Survey No.21 in Block No.6, Ward No.4 having a worth of Rs.1,74,24,000/-. When the petitioner has chosen to participate in the enquiry, as per the direction issued by the Tahsildar, it is highly unimaginable and unbelievable on the part of the petitioner that he was not aware of these two documents. When the petitioner is the surveyor, he should have brought to the notice of the enquiry officer all these documents kept in his custody, therefore, the enquiry officer has rightly found him guilty in respect of Charge Nos.3 & 6. Such a finding of fact reached by the enquiry officer, as confirmed by the disciplinary authority, by imposing the punishment of stoppage of increment for three years with cumulative effect, cannot be interfered with by this Court sitting under Article 226 of Constitution of India.

5. One another contention made by the learned counsel for the petitioner that the explanation offered by the petitioner in the enquiry has been completely overlooked, is also far from acceptance, the reason

is, when the enquiry officer, at the enquiry stage itself, has found him guilty by giving a finding that though in two Government letters viz., D.O.Rc.K1/36249/06, dated 14.02.2011 issued by the Commissioner of land Administration, addressed to the District Revenue Officer, Thanjavur and one another letter issued by the District Revenue Officer, Thanjavur in No.D.O.R.C.No.11071/2011/E3, dated 23.02.2011, instructions have been issued that neither the Settlement Office the Assistant Settlement Officer have no jurisdiction to issue patta and in case, if any such patta is issued, it would be illegal, the petitioner has recommended for issuance of patta in favour of the said Nepolian, without raising any objections. The petitioner for the reasons best known to him has not brought the same to this Court. Therefore, it is not open to him to say that these documents are not available or he was unaware of the above documents, when he was working as a deputy Tahsildar and therefore, writ petition fails and the same is liable to be dismissed.

6. In the result, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar.

To

1.The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
Secretariat,
Chennai - 600 009.

2.The District Collector,
Thanjavur District,
Thanjavur.

+1CC to Mr.T.Lajapathi Roy, Advocate, SR.No. 54358.

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AM/30.10.2015/NGM.SS/3P/4C