

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2016

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.10941 of 2016

K.Muthusamy

... Petitioner

Vs

1. Tamil Nadu Water Supply and Drainage Board,
Rep.by Managing Director,
TWAD House
No.31, Kamarajar Salai
Chepauk, Chennai-600 005.

2. State of Tamil Nadu
Rep.by its Secretary
Department of Municipal Administration
and Water Supply
Fort St.George,
Chennai-600 009.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records and quash the B.P.Ms.No.7 dated 20.01.2016 issued by the 1st Respondent r/w B.P.Ms.No.71 dated 10.09.2011 r/w Proc.No.75882/Estt.(DP)/A4/2007 dated 09.05.2008 and consequently, direct the 1st Respondent to grant all other consequential benefits such as restoration of the stopped increment, grant promotion and accordingly revise the pension and other terminal benefits.

For petitioner : Mrs.D.Nagasaila

For respondents : Mr.S.Gunasekaran
Additional Government Pleader

O R D E R

Assailing the impugned order dated 20.01.2016 issued by the Managing Director of the Tamil Nadu Water Supply and Drainage Board (in short TWAD), Chennai, in B.P.Ms.No.7 read with orders dated 10.9.2011 and 09.5.2008 in B.P.No.71 and Proc.No.75882/Estt.(DP)/A4/2007 respectively, the present writ petition has been filled by K.Muthusamy inter alia contending that the impugned order, which has been passed on the alleged ground that the petitioner has committed dereliction of duty and the same would amount to misconduct, is in violation of Articles 14 and 21 of the Constitution of India.

2. Mrs. Nagasaila, learned counsel for the petitioner would submit that the impugned order has been passed on the ground that the petitioner had not collected water charges from the consumers for the month of August 2007 and also not achieved 100% collection and it would amount to dereliction of duty. The learned counsel would further submit that the charges framed against the petitioner show a complete non-application of mind by the authority since the same has been issued without considering the factual aspects that the water charges are to be collected by the Executive Engineers but the petitioner has no role or whatsoever to play thereto and the authorities, namely, the Disciplinary Authority, the appellate authority and the Board, have also committed serious errors in holding that the petitioner was responsible for the collection of water charges for the year 2007. When the petitioner was serving as Assistant Accounts Officer at the time of his retirement, the Disciplinary Authority ought not to have issued the charge memo under Regulation 9(a) of Tamil Nadu Water Supply and Drainage Board Employees (Discipline and Appeal) Regulations 1972, alleging that there was a failure on his part to take effective steps to collect water charges as per demand for the reason that as per BP.Ms.No.77 dated 28.7.2006 issued by the TWAD Board, only the Executive Engineers of Divisions in charge of collection of maintenance/ Water Charges are responsible for collection of water charges. While so, in the present case, the charge memo has been issued against the petitioner, who has got nothing to do with the collection of charges.

3. By referring to B.P.Ms.No.77, dated 28.07.2006, learned counsel for the petitioner stated that all the Executive Engineers of Divisions in charge of collection of water charges were instructed by the Managing Director of TWAD Board, Chennai, to ensure the collection of 100% of current water charges, demand and 20% of arrears of Maintenance Charges and Water Charges and they were further instructed that any short fall in

the achievement of the above target would entail disciplinary action by the Board. By citing so, learned counsel further stated that it is the duties and responsibilities of the Divisional Officer to comply with the orders passed by the Higher Officers, therefore, the petitioner, being the Junior Accounts Officer, cannot be held responsible, for, he has to look after the works of account and audit in the Division.

4. Learned counsel for the petitioner further submitted that since the grants are received by the Collectorate once in three months from the Government, the District Collector, on receipt of the same, remits the water charges in respect of local bodies to TWAD Board. During August 2007, it was informed from the Collectorate, Namakkal, that the grant has not been received from the Government and hence, water charges due to local bodies for August, 2007, were remitted during September, 2007. Therefore, she pleaded, the petitioner, being the Junior Accounts Officer, cannot be held responsible for collection of water charges, hence, the impugned order of punishment of stoppage of increment for one year without cumulative effect awarded to the petitioner will have to be set aside.

5. The above said contentions of the learned counsel for the petitioner do not find any merit. The petitioner, on receipt of the charge memo dated 20.9.2007, has submitted his explanations on 03.10.2007, wherein he had admitted that every month, on finalisation of monthly accounts, he has to initiate action to send the water charges bills to all the beneficiaries and to send the statement to the Head Office before the 5th of every month and on finalisation of the same, he will have to initiate action to address the beneficiaries requesting them to settle the maintenance charges / water charges due to the TWAD Board. In this connection, he took a plea in the above said explanation that he had contacted the authorities of the concerned local body/ beneficiary over phone and thereby requested them to remit the maintenance charges/ water charges due to the TWAD Board. It is not known how a Junior Accounts Officers can contact the authorities of the concerned local body / beneficiary over phone, instead of issuing action notice against them to pay the dues of water charges. When the explanation offered by the petitioner also failed to mention that he has sent official notices to the beneficiaries, the lame excuse of the petitioner that he had contacted the beneficiaries over phone for payment of water charges is absolutely unjustified and unacceptable.

6. Therefore, in my considered view, the disciplinary authority has rightly found him guilty of the charges and the same has also been rightly affirmed by the appellate authority, hence, the impugned order of punishment of stoppage of increment

for one year without cumulative effect awarded to the petitioner cannot be found fault with.

Thus, for the reasons stated above, the writ petition fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
TWAD House,
No.31, Kamarajar Salai
Chepauk, Chennai-600 005.
2. The Secretary
State of Tamil Nadu
Department of Municipal Administration
and Water Supply
Fort St.George,
Chennai-600 009.

+1cc to Mrs.D.Nagasaila, Advocate, S.R.No.18571
+1cc to the Government Pleader, S.R.No.18680

WP.No.10941 of 2016

UG(CO)
CA(25/05/2016)

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