IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.02.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.6564 of 2016 and
W.M.P. No.5843 of 2016

M.S.Gomathi .. Petitioner

-vs-

1.The Secretary to Government,
State of Tamil Nadu,
Revenue (Serv.2(1)) Department,
Secretariat, Chennai-600 009.

2.The District Collector,
Krishnagiri District.

3.The District Revenue Officer/
Inquiry Officer, Krishnagiri. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records of the 1st respondent relating to G.O.(D) No.429, Revenue Ser(2) 1 Department dated 03.09.2014 quash the same and consequently direct the respondents 1 and 2 to release the retirement and pension benefits to the petitioner within the time to be stipulated by this Court.

For Petitioner : Mr.R.Bharath Kumar

For respondent : Mr.A.Kumar,
Special Government Pleader

O R D E R

This writ petition has been filed by the petitioner M.S.Gomathi, challenging the impugned G.O.(D) No.429, Revenue Ser(2) 1 Department dated 03.09.2014 and seeking a direction to the respondents 1 and 2 to release the retirement and pension benefits to the petitioner, within the stipulated time fixed by this Court.

2.Learned counsel appearing for the petitioner, assailing the impugned order, would submit that the first respondent has miserably failed to discharge the petitioner from the disciplinary proceedings, after coming to know that the other delinquents Revenue Inspector and Village Administrative Officer have been exonerated from the similar set of charges. He would further submit that the first respondent has failed to observe that the allotment of land under Government scheme or issuance of patta to the beneficiaries is not the task that could be accomplished by a single officer and before allotment of land or issuance of patta, the right of the individual to get free land in the Government scheme has to be ascertained and has to be examined based upon their own eligibility. Therefore, finding fault with the petitioner and exonerating the Revenue Inspector and Village Administrative Officer from the very same charges, is nothing but an arbitrary decision taken by the first respondent.

Adding further he would submit that when the first respondent allowed other delinquents namely the Tahsildar Revenue Inspector and Village Administrative Officer to draw the retirement benefits, the petitioner was not allowed to retire from services and draw the retirement benefits for the reason that the petitioner has filed W.P. No.17566 of 2013 before this Court seeking a direction to conclude the disciplinary proceedings within a time frame. This Court, by order dated 28.06.2013, directed the first respondent to conclude the disciplinary proceedings and pass final orders. Since the respondents 1 and 2 did not conclude the disciplinary proceedings within the time frame, the petitioner filed Contempt Petition No.1239 of 2014. This Court, directed the respondents to comply with the order, within a period of two months, by issuing charge memo immediately and by conducting disciplinary proceedings on day to day basis. As the respondents 1 and 2 did not conclude the disciplinary proceedings, statutory notice was issued. Thereafter, respondents 1 and 2 issued a charge memo dated 26.05.2014. Subsequently, the third respondent was appointed as enquiry officer and during enquiry, the petitioner's request to examine the Village Administrative Officer and Revenue Inspector as witnesses was rejected by the enquiry officer. Thereafter, the enquiry officer sent a report to the first respondent on 30.07.2014 and on receipt of the enquiry report, the first respondent by a communication dated 13.08.2014, called upon the petitioner to submit her explanation and the petitioner submitted her explanation on 26.08.2014. But the first respondent, without considering the explanation and statement and also without analysing the entire issue, has accepted the view of the enquiry officer and imposed the punishment of compulsory retirement by the said impugned order and hence the same is liable to be interfered with.

3.Learned Special Government Pleader appearing for respondents would submit that when the petitioner was serving as Deputy Tahsildar at the relevant point of time, she failed to perform her duty and as a result of which the valuable lands were given to the persons, who are already having lands and consequently the scheme introduced by the State Government to give lands to landless people, has been ignored. Therefore, the respondent came to the conclusion that the order of compulsory retirement should be imposed against the petitioner, based upon the attitude of the petitioner, therefore, each and every beneficiary cannot be examined by her. Hence, such order cannot be found fault with.

4.I find much force in the submission made by the learned Special Government Pleader appearing for respondents. It is seen that the petitioner, in her explanation, has submitted that she became the victim of circumstances and she took a further stand that it was not possible to examine each and every beneficiary and it can be done randomly. Such attitude of the petitioner shows that she has not performed her duty properly. Therefore, this Court is not able to accept the contention made by the learned counsel for the petitioner. Moreover, the petitioner, who was served as a Deputy Tahsildar, ought to have personally verified the eligibility of the beneficiaries and ought not to have just depended on the recommendation of subordinates. Therefore, the Government has come forward to arrive at a decision to impose the punishment of compulsory retirement on the petitioner. Hence, this Court, finding no error in the impugned order, is not inclined to grant the relief sought for by the petitioner. Accordingly, the Writ Petition fails and the same is dismissed. No costs. Consequently, connected M.P. is also dismissed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vga
To
1.State of Tamil Nadu,
rep. by its Secretary to Government,
Revenue (Serv.2(1)) Department,
Secretariat, Chennai-600 009.

2.The District Collector,
Krishnagiri District.

3.The District Revenue Officer/
Inquiry Officer, Krishnagiri.

+1cc to M/s. R. Bharathkumar, Advocate, S.R.No.11592
+1cc to the Government Pleader, S.R.No.11745

SAI(CO)
EU(21/03/2016)