



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

WEB COPY

W.P(MD)No.13664 of 2015

and

W.M.P(MD)No.6110 of 2016

A.Ravichandran

... Petitioner

vs.

The State of Tamilnadu,  
Rep. by its Principal Secretary to Government,  
Public Works Department,  
Fort St.George,  
Chennai-9.

... Respondent

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for records relating to the impugned orders of the respondent dated 27.01.2014 passed in his proceedings in G.O.(D)No.36 and consequential order dated 13.05.2015 passed in his proceedings in G.O(D)No.131 and quash the same.

For Petitioner : Mr.B.Prahalad Ravi

For Respondent : Mr.R.Anandharaj, Government Advocate

#### ORDER

The petitioner has filed this writ petition for issuance of a Writ of Certiorari, calling for the records relating to the impugned order of the respondent dated 27.01.2014 passed in his proceedings in G.O.(D)No.36 and the consequential order dated 13.05.2015 passed in his proceedings in G.O(D)No.131, to quash the same.

2.Learned counsel for the petitioner would submit that the petitioner/Mr.A.Ravichandran was issued with a charge memo No.A1/854/10 dated 29.06.2010 containing three charges. Subsequently, the charges were tried by the Tribunal for Disciplinary Proceedings, Chennai, in TDP Case No.14/2010. After going through the gravity of the charges, the Tribunal has submitted a report on 29.05.2012 finding mistake with the framing of the charges against the petitioner and finally concluding against the department, set aside all the charges as not maintainable. However, recording its finding that the petitioner was unnecessarily implicated as accused by the investigating officer without there being any evidence against him, the Tribunal made a recommendation to the disciplinary authority to take action against the investigation officer.

3.He further submitted that the disciplinary authority deviating from the report of the Tribunal for Disciplinary



Proceedings, issued a show cause notice dated 03.10.2012 to the petitioner calling upon him to submit his explanation as to why the report of the Tribunal for Disciplinary Proceedings should not be differed, since the learned Tribunal has not gone into the details of the charges framed against the petitioner. On receipt of the same, the petitioner submitted his reply on 31.10.2012 requesting the disciplinary authority not to differ from the report of the Tribunal for Disciplinary Proceedings, since the department has miserably failed to establish and substantiate any one of the charges. However, the disciplinary authority rejecting the reply given by the petitioner on 31.10.2012 to the show cause notice dated 03.10.2012 asking him why the report of the Tribunal for Disciplinary Proceedings should not be differed, imposed a punishment of stoppage of increment for two years with cumulative effect. The said order was challenged by the petitioner in W.P(MD) No.1941 of 2013 on the ground that when the Tribunal for Disciplinary Proceedings has found all the charges levelled against the petitioner as not substantiated, the disciplinary authority differing from the report of the Tribunal for Disciplinary Proceedings, has wrongly imposed the proposed punishment without even giving any reason whatsoever to any one of the charges. Finally, by order dated 12.07.2013, this Court setting aside the show cause notice dated 03.10.2012 calling upon the petitioner to give his reply as to why the report of the Tribunal for Disciplinary Proceedings should not be deviated, allowed the writ petition with liberty to the 1<sup>st</sup> respondent therein, to give a fresh show cause notice to the petitioner stating the reason as to why he differed with the view of the Tribunal for Disciplinary Proceedings and thereafter to take a final decision.

4.Continuing his arguments, learned counsel for the petitioner would submit that even after the direction given by this Court, while setting aside the show cause notice dated 03.10.2012, directing the disciplinary authority to issue a fresh notice, calling upon the petitioner assigning reason to deviate from the report of the Tribunal for Disciplinary Proceedings, the disciplinary authority has not assigned any reason. However, the petitioner submitted his reply requesting the disciplinary authority not to deviate from the report of the Tribunal for Disciplinary Proceedings. Rejecting the case of the petitioner again, the disciplinary authority accepted the charges as proved against the petitioner without assigning any single reason to any one of the charges, therefore, G.O(D)No.36, Public Works (E1) Department, dated 27.01.2014, imposing the punishment of stoppage of increment for two years with cumulative effect, he pleaded, is liable to be set aside.

5.Concluding his arguments, learned counsel for the petitioner would submit that when the charges levelled against the petitioner have not been established as proved by the disciplinary authority, the question of imposing the punishment of stoppage of increment for two years with cumulative effect is wholly unsustainable in law, for



the reason that before the petitioner was imposed with the punishment, the charges levelled against the petitioner should have been substantiated with all good reasons, but here, only the charges are upheld without there being any evidence to support the charges. A perusal of the punishment order also does not speak any thing in support of the charges.

6.A counter affidavit has been filed by the respondent. Learned Government Advocate appearing for the respondent would submit that the Tribunal for Disciplinary Proceedings has been entrusted with a solemn duty to find out whether the charges levelled against the petitioner are genuine as alleged by the department, but the learned Tribunal which is a fact finding authority, instead of confining itself to the veracity of the charges, has wrongly gone out of its role and found fault with the investigating officer and finally issued a direction to the respondent/disciplinary authority to take action against the investigating officer.

7.Adding further, he would submit that it is a well settled legal position that the enquiry officer or the Tribunal for Disciplinary Proceedings has no power or authority to recommend any punishment whatsoever to the investigating officer. In the present case, a mere perusal of the report of the Tribunal for Disciplinary Proceedings clearly shows that the Tribunal for Disciplinary Proceedings has also stepped into the shoes of the disciplinary authority by recommending punishment to be imposed and that the charges levelled against the petitioner also have not been substantiated. In that view of the matter, the disciplinary authority in law is entitled to differ from the report of the Tribunal for Disciplinary Proceedings, accordingly, the disciplinary authority issued a show cause notice to the petitioner to submit his explanation as to why he should not differ from the report of the Tribunal for Disciplinary Proceedings. Instead of giving a detailed reply to the disciplinary authority, the petitioner challenged the show cause notice in W.P(MD)No.1941 of 2013 alleging that the disciplinary authority has failed to furnish sufficient reason to differ from the report of the Tribunal for Disciplinary Proceedings. However, this Court accepting the case of the petitioner, directed the disciplinary authority to issue a fresh show cause notice assigning reason as to why the report of the Tribunal for Disciplinary Proceedings has been differed. He would further submit that in the light of the order passed by this Court, when a show cause notice was issued calling upon the petitioner to submit his reply, the petitioner submitted his reply, which is a mere repetition of the earlier explanation offered by the petitioner and nowhere in his explanation, he has disproved the charges, therefore, the disciplinary authority has confirmed the proposed punishment, hence, no error or mistake, he pleaded, can be found with the impugned order.



8. Heard both sides.

9. But this Court hardly finds any justification, for the reason that when the petitioner was issued with a charge memo alleging three charges, he appeared before the disciplinary authority and the Tribunal for Disciplinary Proceedings contending that no charge could be laid against him. Further, the learned Tribunal for Disciplinary Proceedings after going through the deposition made by the investigating officer that the petitioner was made as a scapegoat and subjected to disciplinary proceedings by issuance of the charge memo on the false allegation, has rightly found fault with the department. When the investigation officer has boldly come to the witness box and deposed against the department stating that the charges are all cooked up for the purpose of implicating the petitioner, the Tribunal for Disciplinary Proceedings, in my considered view, has rightly held against the department holding that no charge is proved. Incidentally, the Tribunal for Disciplinary Proceedings has also given a direction to the disciplinary authority to take action against the officers responsible for framing charges against the petitioner. May be, legally, the department is right in saying that the Tribunal ought not to have come forward to give any recommendation to the disciplinary authority to take action against the investigating officer, but in the facts and circumstances, when the investigating officer himself has deposed that an innocent person has been wrongly implicated, the Tribunal for Disciplinary Proceedings has given its recommendation to take action against the investigating officer. No doubt, it is not bound by the disciplinary authority.

10. Be that as it may, when this Court has stepped into the grievance of the petitioner on the ground that the disciplinary authority while differing from the report of the Tribunal for Disciplinary Proceedings has failed to assign reasons and directed the disciplinary authority to assign reasons to differ from the report of the Tribunal for Disciplinary Proceedings, the impugned order imposing punishment of stoppage of increment for two years, does not reflect any single reason whatsoever. Therefore, the impugned order has to suffer the risk of interference by this Court. Needless to say, reasons are heart beats of any administrative order, therefore, this Court is inclined to set aside the impugned orders.

Accordingly, the writ petition stands allowed. No costs. W.M.P (MD) No. 6110 of 2016 is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar



To

The Principal Secretary to Government,  
State of Tamilnadu,  
Public Works Department,  
Fort St.George,  
Chennai-9.

+1cc to Spl.Government Pleader Sr.No.30505  
nbi  
AA/GSV-PM/12.07.2016/5p-3c

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14.06.2016