



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2016

CORAM

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.18000 of 2016

G.Arockiyasamy

... Petitioner

vs.

1)The Principal Secretary to Government,
Revenue Department,
Secretariat,
Chennai-600 009.

2)The District Collector,
Sivagangai District,
Sivagangai.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing first respondent i.e., the Principal Secretary to Government, Revenue Department, Chennai, to pass appropriate order on the disciplinary action initiated in Government கடித எண்.6975/நி.அ4(2)/2011-2 Revenue Department நாள் : 18.02.2011 in the light of the patta granted in respect of the land situated in Natham S.No.21623 and 21624 of Thaancha Oorani Village - Sirumaruthur Group by the Revenue Divisional Officer, Devakottai in his proceedings K.Dis.A1/2633-2010 dated 20.09.2011 and the report of the enquiry officer dated 30.04.2015 within a specified time frame that may be fixed by this Hon'ble Court.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.T.S.Mohammed Mohideen
Additional Government Pleader

ORDER

The petitioner had been lastly serving as a Village Administrative Officer in Sivagangai District. On the date of superannuation on 31.10.2013, he was allowed to retire with a condition that the disciplinary action already initiated by the Government against him, would be dealt with according to the provisions of the Tamil Nadu Pension Rules.



2.The allegation against the petitioner is that he has recommended for grant of patta in respect of the land situated in Natham S.Nos.21623 and 21624 of Thaancha Oorani Village, to the Revenue Divisional Officer, Devakottai; this is the only allegation based on which, disciplinary action was initiated; after getting the explanation, an enquiry officer was appointed and the enquiry officer has sent his report on 30.04.2015, stating that the charges are not proved; thereafter, the grant of patta recommended by the petitioner has been confirmed as correct by the Revenue Divisional Officer, Devakottai, in his proceedings dated 20.09.2011; even thereafter, no final order has been passed in respect of the report sent by the enquiry officer and therefore, with a limited prayer, this Writ Petition has been filed, to direct the 1st respondent to pass appropriate orders on the disciplinary action initiated against the petitioner.

3.A special prayer has been made that the representation of the petitioner should be considered in the light of the patta granted in respect of the land situated in Natham S.Nos.21623 and 21624 of Thaancha Oorani Village - Sirumaruthur Group by the Revenue Divisional Officer, Devakottai, in his proceedings K.Dis.A1/2633-2010 dated 20.09.2011. This specific request is opposed by the other side, on the ground that to consider the report of the enquiry officer, these details are not essential.

4.The fact remains that the disciplinary authority may take a different view than that of the enquiry officer, who conducted the enquiry. When the charges are with reference to grant of patta and the grant of patta as recommended by the petitioner, has been confirmed as correct by the competent statutory official, there is no likelihood on the part of the disciplinary authority taking a different view than that of the view taken by the enquiry officer.

5.Under such circumstances, the prayer which includes that the representation of the petitioner should be considered in the light of the patta granted in favour of one Ramarajan and his wife, as recommended by the petitioner initially, should be accepted and certainly, it is a factor to be taken into account, while deciding whether there is justification at all to initiate disciplinary proceedings against the petitioner, and to continue the same.

6.Accordingly, this Writ Petition is disposed of directing the respondents to consider the representation of the petitioner dated 09.06.2016, in the light of the patta granted in respect of the land situated in Natham S.Nos.21623 and 21624 of Thaancha Oorani



Village - Sirumaruthur Group by the Revenue Divisional Officer, Devakottai, in his proceedings K.Dis.A1/2633-2010 dated 20.09.2011, and to pass appropriate order on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1)The Principal Secretary to Government,
Revenue Department,
Secretariat,
Chennai-600 009.

2)The District Collector,
Sivagangai District,
Sivagangai.

+1 cc to The Special Government Pleader Sr.No.54698

+1 cc to MR.S.VISVALINGAM, Advocate Sr.No.54276

W.P (MD) No.18000 of 2016
21.09.2016

SMA/SKS-RR/19/10/2016 :3P/5C