

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.12.2017

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.31273 of 2017 and
WMP.Nos.34349 to 34351 of 2017

M.M.Antonisamy

... Petitioner

Versus

1. The Commissioner,
O/o. Social Welfare and Nutrition Scheme,
Secretariat, Chennai-2.
 2. The Secretary to the Government/
Special Commissioner and Secretary,
Integrated Child Development Services,
Chennai-113.
 3. The District Nutrition Officer,
O/o.The District Nutrition,
Avinashi, Coimbatore District.
 4. Accounts Officer (General) A &E.,
O/o. General Provident Fund,
Teynampet, Chennai.
 5. The Director,
Integrated and Child Development Services,
Tharamani, Chennai-113.
- ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the impugned respondent G.O.No.35, dated 27.03.2014 and quash the same.

For Petitioner
For Respondents
1 to 3 and 5

: Dr.S.Kolandasamy
: Mr.ERA.Premnath,
Government Advocate

ORDER

The Writ Petition is directed against the order dated 27.03.2014 passed in G.O.(D) No.35, Social Welfare and Nutrition Scheme Department.

2. The case of the petitioner is that the petitioner initially joined as Second Clerk in the 1st respondent Department and subsequently, promoted as a Junior Assistant and thereafter, as Accountant. While so, he was suspended on 24.07.1997 for misappropriation of funds and as many as six charges were levelled against him in which two charges were dropped. Though for the 3rd charge the petitioner gave an explanation that Rs.80,000/- was credited in Maternity Ledger received from Dr.Muthu Lakshmi Reddy on 9.6.1997, he was not allowed to see the ledger and they included some other amount and charged him for misappropriation of a sum of Rs.3,11,239.30p though the actual amounts were properly given to the beneficiaries. Further, the Enquiry Officer forced him to pay Rs.1,00,000/- forthwith, otherwise, he stated that the petitioner cannot continue the service and accordingly, he paid Rs.1,00,000/-. Likewise, the 5th charge, namely, misappropriation of Rs.48,271.50 is concerned, the said amount was credited in LIC. The Enquiry Officer without enquiring anybody in respect of all the charges alleged against the petitioner, submitted a report based on which, the 1st respondent on 27.3.2014, terminated him from service.

3. The further case of the petitioner is that the petitioner gave a representation to the respondents 1 and 2 to issue a retirement order and pay pension and other attendant benefits. He has also given a letter to the 5th respondent to pay the GPF and arrears of VI Pay Commission. While so, the Senior Accounts Officer has sent a letter to the petitioner stating that the GPF amount returned to the Treasury due to the non-availability of the non-drawal Certificate. Hence, the present Writ Petition.

4. Learned Counsel for the petitioner assailing the order of dismissal of the petitioner from service submitted that the Enquiry Officer after completing the Enquiry wrongly filed a report by playing a role to end his career by giving a finding of misappropriation, when there is no sufficient material to sustain the said finding. He further submitted that the Enquiry Officer forced the petitioner to pay a sum of Rs.1,00,000/- forthwith, failing which, he cannot continue in service and out of the said threat, he paid the aforesaid amount. This apart, according to the learned Counsel for the petitioner, there is no proper enquiry conducted among the beneficiaries and thus, manipulating the Maternity Register, the Enquiry Officer has wrongly confirmed the Charge No.3. Likewise, the amount collected towards LIC subscription has also been paid to the LIC agent. Therefore, the learned Counsel prays to allow the present Writ Petition.

5. Mr.ERA Premanth, learned Government Advocate, taking notice for the respondents 1 to 3 submits that after conducting a proper Enquiry and based on the Enquiry Officer's Report only, the impugned order came to be passed and therefore, he prays for dismissal of the Writ Petition.

6. I have considered the rival submissions made on either side and I have also perused the materials available on record.

7. This Court is unable to accept the submissions of the learned Counsel for the petitioner for the sole reason that when the Enquiry Report was submitted to the Disciplinary Authority on 31.08.1998, a copy of the same was furnished to the petitioner calling upon him to submit his written explanation to the report of the Enquiry Officer and thereafter only, the Disciplinary Authority accepted the report of the Enquiry Officer and passed the order in G.O.(D) No.35, Social Welfare and Nutrition Scheme Department, dated 27.03.2014, but the same has not been questioned almost for a period of 3 ½ years. Therefore, the Writ Petition is liable to be dismissed on the ground of delay. However, if the petitioner has made any contribution towards General Provident Fund and Special Provident Fund, he is entitled to get back the same and also entitled to encash Earned Leave and Unearned Leave on Private Affairs on his credit. In this regard,

the petitioner to submit a representation claiming the same, within a period of one week from today.

8. With the above observation, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are also closed.

04.12.2017

Index:Yes/No
Internet:Yes/No
tsi

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**T.RAJA, J.
tsi**



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