IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Writ Appeal No.563 of 2017
and
CMP.No.8023 of 2017

1.The Director
Stationery and Printing Department
110, Anna Salai
Chennai-600 002

2.Secretary to Government
Tamil Development, Religious Endowment
& Information Department
Fort St.George, Chennai-600 009

3.The Principal Commissioner/Commissioner of
Treasuries & Accounts
Chennai-15

4.The Secretary
Finance Department
Fort St.George
Chennai-600 009 ..Appellants

Vs

1.D.Raghuraman

2.The Principal Accountant General
Accounts & Entitlements
Teynampet
Chennai-18 ..Respondents

Prayer : Writ Appeal filed against the order dated 15.04.2014 made in W.P.No.24978 of 2011.

WP.24978 of 2011: Petition presented to this Court to issue a Writ of Certiorarified Mandamus, Calling for the records relating to (1) Charge Memo proceeding No. R1/41058/2009 dated 26.02.2010 of the first Respondent, (2) Govt. Lr.No. 29435/A

Aa.1-2/2009-18 dated 8.2.2011 of the second Respondent and (3) Pro.No. 52169/09 H3 dated 15.3.2011 of the third Respondent, Quash order dated 26.2.2010 in its entirely and the orders dated 8.2.2011 and 15.3.2011 to the limited extent of withholding an amount of Rs.1,41,541/- from DCRG benefits and to consequently direct the respondents herein to disburse the entire balance amount of Gratuity and disburse the full pension with arrears and other benefits due and payable to the petitioner with 12% interest on the delayed payment.

For Appellants :: Mr.P.S.Sivashanmugasundaram
Special Govt.Pleader

For Respondents:: Mr.Ali Hassan Khan for Mr.M.Ravi for R1

JUDGMENT

(Judgment of the Court was made by
HULUVADI G.RAMESH, J.)

This Writ Appeal is directed against the order dated 15.04.2014 passed in W.P.No.24978 of 2011.

2. The learned Single Judge, by order dated 15.04.2014, set aside the impugned orders passed by the respondents therein and held that there is no material to implicate the petitioner against the allegations mentioned in the charges and thereby, the 1st respondent herein/Writ Petitioner/Chief Accounts Officer, has been exonerated from the charges framed against him and further the third respondent/Principal Commissioner/Commissioner of Treasuries and Accounts, was directed to send the pension proposal to the other authorities for disbursement of the pensionary and other service benefits to the Writ Petitioner within a period of three weeks from the date of receipt of a copy of the said order. Challenging the same, this Writ Appeal is preferred at the instance of the respondents in the Writ Petition/appellants herein.

3. A few days before the retirement of the Writ Petitioner, he was issued with the charge memo dated 26.02.2010 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, alleging that the petitioner had committeed a serious misconduct by enhancing the requirement of purchase of manifold papers from the original 500 reams to 66 metric tonnes, which had caused a huge loss to the Government to the tune of Rs.47,48,370/-. The said charge memo further shows that while the petitioner was serving as Accounts Officer in the Stationery and Printing Department, Chennai, during the period from 06.12.2005 to 26.11.2009, as a member of the evaluation

committee along with the other committee members, had enhanced the actual requirement of manifolding paper from 500 reams to 66 metric tonnes without any basis, wrongly obtained approval from the Special Commissioner and Commissioner, Stationery and Printing and also obtained the special purchase committee's approval, therefore, the petitioner was instrumental to the purchase of 66 metric tonnes of manifolding paper.

4. To the show cause notice issued to the Writ Petitioner, he has given a detailed explanation dated 18.09.2009 making it clear that the petitioner was at no point of time, a member of the Committee which recommended for the purchase of 66 metric tonnes of manifolding paper. The petitioner also made a detailed representation to the 3rd respondent , in response to an explanation called for to substantiate his stand that why he should not be proceeded with departmentally, stating that he was neither a party to the said proposal submitted by the purchase committee nor was a signatory to the said proceeding.

5. The learned Single Judge, on going through the submissions made on either side and on a perusal of the Proceedings dated 06.04.2006 placed before him, held that only four officers were present when the evaluation committee decided to purchase 66 metric tonnes of manifolding paper, the signatures appended by all the four officers, namely, the Deputy Director (Stationery), the Chief Accounts Officer, the General Manager of Stationery and Printing and the Special Commissioner of Stationery and Printing have only recommended for the purchase of 66 metric tonnes of manifolding paper; when the said proceeding does not show the name of the petitioner or the recommendation made by the petitioner for making the further recommendation by the above mentioned four members of the evaluation committee, this court is unable to accept the impugned proceedings dated 26.02.2010. The learned Single Judge further held that the counter affidavit shows that the petitioner was one among the four officers named in the evaluation committee for making the recommendation for procurement of various kinds of papers and stationery articles required for the year 2006-07; no doubt, the petitioner, at the relevant point of time, serving as Accounts Officer, was one among the members of the evaluation committee only for purchase of 40 metric tonnes of manifolding paper. It is also pointed out that the recommendation was also not accepted; by proceedings dated 06.04.2006, the decision taken by the previous evaluation committee consisting of the Assistant Director (Stationery), Deputy Director (Stationery), General Manager of Stationery and Printing Department including the petitioner was modified by the subsequent evaluation committee in which the petitioner was not even a member. Thus, the learned Single Judge, quashed the impugned order and allowed the Writ Petition

filed by the 1st respondent herein.

6. The learned Special Government Pleader appearing for the appellants submits that there was involvement on the part of the 1st respondent/Writ Petitioner as a member of Evaluation Committee, which recommended for the purchase of Manifolding Paper which is more than the actual requirement of 6.6 metric tonnes of Manifolding Paper, thereby, resulting loss to Government exchequer. He further submits that recommendation made by him for 40 metric tones of Manifolding Paper is higher than the actual requirement and thereby resulted in unwarranted purchase and the consequent loss to Government.

7. The other contentions raised on behalf of the appellants is that the 3rd appellant herein withheld a sum of Rs.1,41,541/- the proportionate share for the loss caused to the Government due to the unwarranted purchase of manifolding paper from the Death cum Retirement Gratuity payable only based on the request of the 1st respondent/writ petitioner herein and the balance Death-cum-Retirement Gratuity and provisional pension have been disbursed pending disciplinary action against the 1st respondent/writ petitioner herein. It is further stated that the learned Single Judge failed to consider the fact that the non-disbursement of balance of Death-cum-Retirement Gratuity pensionary benefits to the 1st respondent/Writ Petitioner herein was due to pendency of the disciplinary action initiated against him that too as per the consent letter given by the Writ Petitioner.

8. It is further brought to the attention of this court that disciplinary actions have been initiated against all the officials involved in this case and the Death cum Retirement Gratuity payable to the General Manager, the Deputy Director (Stationery), the other members in the said evaluation committee have been withheld and aggrieved by the same, one M.R.Sridharan, filed a Writ Petition in W.P.No.8319 of 2013 and the same is pending before this court. It is also stated that investigation in the above subject matter is also pending before the Directorate of Vigilance and the Anti corruption.

9. Taking into consideration all the above factual matrix of the case, this court is of the considered view that the points to be determined as to whether the 1st respondent/Writ Petitioner, is a member of the evaluation committee and endorsed the requirement of 66 Metric tonnes of Manifolding Paper for the year 2006-2007 and whether he is involved in the said recommendations, will be revealed only on conclusion of the departmental enquiry. Further, no prejudice would be caused to the appellants herein, in appreciating the facts before the said Disciplinaty Authority and taking appropriate decision

therefter.

10. In the light of the above observation, this court is inclined to pass the following order:

" The Disciplinary Proceedings initiated against the 1st respondent/Writ Petitioner shall be concluded within 3 months from the date of receipt of a copy of this order. All the contentions are left open to the appellants herein as well as the 1st respondent/Writ Petitioner, to be put forth before the Disciplinary Authority, who shall take appropriate decision, on a careful consideration of the facts placed before him in respect of whether the Writ Petitioner/1st respondent is involved in the allegations or not and as to whether he had given recommendations with regard to purchase of stationery. "

Accordingly, the order of the learned Single Judge is modified. The Writ Appeal is disposed of. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True copy//

Sub Assistant Registrar

nvsri

To

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Chennai-600 002

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5.The Principal Accountant General
Accounts & Entitlements
Teynampet
Chennai-18

+1cc to Mr.M.Ravi, Advocate SR.No.84046
+1cc to Government Pleader SR.No.84251

W.A.No.563 of 2017

NM(CO)
GN(22/01/2018)