

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2017

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.23782 of 2011

A.Karunanithi

.. Petitioner

Vs.

1. The State of Tamil Nadu rep. by its Principal Secretary to Government, Revenue (Service 7(2) Department, Secretariat, Chennai - 9.
2. The Principal Secretary/Commissioner of Revenue Administration, Disaster Management and Mitigation Department, Chepauk, Chennai - 5.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records connected in Se.Mu.No.Service 5 (3)/33513/09 dated 23.04.2010 passed by the second respondent and G.O.(2D) No.220 Revenue (Ser 7(2)) Department dated 17.05.2011 passed by the first respondent and quash the same and direct the respondents to reinstate the petitioner in service with all benefits.

For Petitioner.. Mr.G.Elanchezhiyan  
For Respondents.. Mr.K.Venkatramani,  
Addl. Advocate General VII  
assisted by  
Mr.R.A.S.Senthilvel,  
Addl. Govt. Pleader

ORDER

Challenging the order of the second respondent dated 23.04.2010 and G.O.(2D) No.220 Revenue (Ser 7(2)) Department dated 17.05.2011 passed by the first respondent and for a consequential direction to the respondents to reinstate the petitioner in service with all benefits, the petitioner has filed the present writ petition.

2.The case of the petitioner is that while working as Village Administrative Officer, he was chargesheeted for certain acts of misconduct during the period from 15.09.2001 to 30.11.2006. The charges relate to unauthorised disbursement of amounts to the families to the tune of Rs.67,183/- as against the Government instructions that the amount should be distributed only to the needy and the poor towards implementing the Calamity Relief/Natural Calamity Contingency Fund Scheme. The matter was referred before the Tribunal For Disciplinary Proceedings and after conclusion of the proceedings, the charges framed against the petitioner was found to be established. Thereafter, the enquiry report was submitted to that effect. The petitioner was directed to give his explanation to the enquiry report and in response to the same, the petitioner had submitted a detailed explanation on 11.11.2009 stating that the amount had been disbursed mistakenly without any motive or intention to defraud the Government. According to the petitioner, the amount was to be disbursed urgently and due to non-availability of sufficient time, while disbursing the amount, certain lapses had happened and such disbursement was not intentional or intended to make any wrongful gain personally.

3.Not satisfied with the reply, the disciplinary authority passed the impugned order on 23.04.2010 removing the petitioner from service, against which, an appeal has been filed. But the appeal came to be rejected on 17.05.2011 stating that there are no fresh points for consideration. As against the order passed by the disciplinary authority and the appellate authority, the petitioner is before this Court.

4.Upon notice, Mr.R.A.S.Senthilvel, learned Additional Government Pleader entered appearance on behalf of the respondents and filed counter.

5.Mr.K.Venkatramani, learned Additional Advocate General appearing for the respondents would contend that the charges as framed against the petitioner were fully established in the Tribunal For Disciplinary Proceedings and therefore, the punishment which was imposed on the petitioner was proportionate to the gravity of the charges framed against the petitioner. Since the charges are fully established in a duly conducted enquiry, there is no scope for interference by this Court.

6.Per contra, learned counsel appearing for the petitioner would submit that in respect of similarly placed Village Administrative Officers, who are also charged with the similar charges, the administration had imposed minor penalty of stoppage of increment for two years and for recovery of the sum, which is assessed as a loss caused to the Government due to their lapses. The learned counsel would draw the Court's

attention in respect of two similarly placed Village Administrative Officers one Thiru.S.Nagarajan and one Thiru.S.Dhanapal, who were similarly chargesheeted but let off with the penalty of stoppage of increment for two years without cumulative effect and also imposition of recovery of loss caused to the Government from them. He would urge this Court to treat the petitioner on par with the other two Village Administrative Officers in the matter of imposition of penalty.

7.Upon consideration of the submissions made on behalf of the learned counsel appearing for the petitioner, this Court is of the view that there cannot be any discrimination in the matter of punishment in respect of the same charges alleged against the petitioner and the similarly placed persons. However, it also appears that the petitioner had some kind of explanation for the lapses committed by him and therefore, the punishment of removal from service appears to be too harsh, in the facts and circumstances of the case. Considering the punishment imposed on the other two similarly placed Village Administrative Officers, this Court is of the view that a similar penalty can be imposed viz., stoppage of increment for a period of two years and recovery of loss caused to the Government by the negligent act of the petitioner.

8.In the above circumstances, this Court sets aside the impugned order passed by the respondents and modify the penalty as one of stoppage of increment for two years without cumulative effect and recovery of the amount towards the loss said to have been caused on the account of act of misconduct. During the pendency of the writ petition, the writ petitioner had attained the age of superannuation with effect from 31.01.2012. Therefore, the said order shall be passed by the Government within a period of two months from the date of receipt of a copy of this order and consequently pay him all retirement benefits.

9.The writ petition is allowed on the above terms. No costs.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

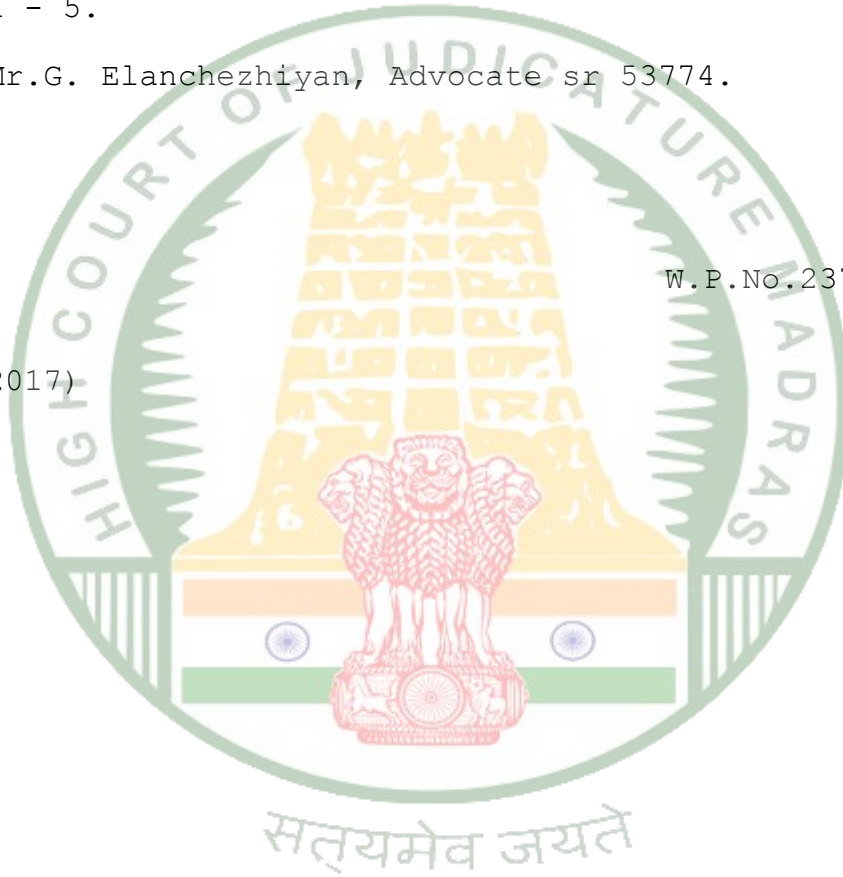
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To

1. The Principal Secretary to Government,  
Revenue (Service 7(2) Department,  
Secretariat, Chennai - 9.
  2. The Principal Secretary/Commissioner of  
Revenue Administration,  
Disaster Management and Mitigation  
Department, Chepauk,  
Chennai - 5.
- +1 Cc to Mr.G. Elanchezhian, Advocate sr 53774.

W.P.No.23782 of 2011

PA(CO)  
sp(05/10/2017)



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