IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2017

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE M.GOVINDARAJ

Writ Appeal No.2303 of 2013
and
M.P.No.1 of 2013

1.The Secretary to Government
Government of Tamil Nadu
Rural Development and Panchayat Raj Department
Fort St. George, Chennai - 600 009

2.The Director of Rural Development
Chennai 600 015

3.The District Collector
Thanjavur District
Thanjavur .... Appellants/Respondents

vs.

V.Parimala .... Respondent/Petitioner

Writ Appeal under clause 15 of the Letters Patent against the order passed in W.P.No.17755 of 2006 dated 16.03.2012.

Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus or any other appropriate Writ, Direction or Order in the nature of a Writ, Calling for the records relating to GO (D) No.606 Rural Development Department dated 01.12.2005 of the first respondent quash the same and issue consequential directions to include the name of the petitioner in the ensuring panel as on 01.03.2006 for promotion as Deputy Block Development Officer without reference to the punishment imposed in G.O.(D) No.606 Rural Development Department dated 01.12.2005 and to promote the petitioner as Deputy Block Development Officer without prejudice to her claim for being promoted as such retrospectively from the date of promotion of her immediate junior.

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For appellants : Mr.K.V.Dhanapalan,
Spl. Government Pleader

For Respondent : Mr.M.Ravi

JUDGMENT

(delivered by S.MANIKUMAR, J)

Challenge in this appeal is to an order dated 16.03.2012 made in W.P.No.17755/2006, by which, the writ court, quashed G.O.[D] No.606, Rural Development Department dated 01.12.2005 of the first appellant and consequently, directed the appellants to include the name of the respondent, in the panel, as on 01.03.2005, for promotion as Deputy Block Development Officer.

2. Material on record discloses that on 09.01.2001, respondent No.1 has been issued with a charge memo dated 09.01.2001 to wit:

> (1) During period from 01.09.1998 to 03.12.1998, the cashier of Thanjavur Panchayat Union, forged the documents to show that he was already remitted Rs.50,964/- without even remitting the same to the treasury and during the period, the petitioner working as Accountant [In-charge], has to submit the monthly reconciliation accounts on the next month before 25.12.1998 and she has failed to do and thereby, facilitated the cashier Mr.S.Balachandran to commit the misappropriation of the above said amount.
>
> (2) The petitioner has failed to supervise the transaction effectively during the relevant period.

3. Material on record further discloses that she was working as Accountant (In charge) from 01.09.1998 to 03.12.1998. The Respondent can submit monthly reconciliation accounts statement before 25.12.1998. However, she was relieved on 03.12.1998 itself. She was blamed for not submitting the same, and thereby facilitating the cashier to commit misappropriation.

4. Going through the charges, writ court has observed that they were vague. Placing reliance on the decision in Sawai Singh vs. State of Rajasthan, reported in AIR 1986 SC 995 and Anil Gilurker v. Bilaspur Raipur Kshetria Gramin Bank & Anr reported in 2011 (5) CTC 564, writ court, held that when the respondent had been relieved from 03.12.1998, she cannot be held liable for not submitting the monthly reconciliation statement on

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25.12.1998. Holding the charges as baseless and unfounded, the writ court vide order dated 16.03.2012, quashed the impugned order in G.O.[D] No.606, Rural Development Department dated 01.12.2005 of the first appellant and consequently, directed the appellants to include the name of the respondent, in the panel, as on 01.03.2005, for promotion as Deputy Block Development Officer.

5. Though Mr.K.V.Dhanapalan, learned Special Government Pleader, assailed the correctness of the said order, on various grounds set out in the memorandum of grounds of writ appeal, posed with a question as to how the respondent could be blamed for not submitting the monthly reconciliation accounts before 25.12.1998 when she was relieved on 03.12.1998 itself, learned Special Government Pleader could not offer any tenable reason.

Heard the learned Special Government Pleader and perused the materials on record.

6. In Sawai Singh vs. State of Rajasthan, reported in AIR 1986 SC 995, the Hon'ble Apex Court held as follows:

> " Where the charges framed against the delinquent officer were vague and no allegations regarding it, have been made by him before the Enquiry Officer or before the High Court, the fact that he was participated in the enquiry would not exonerate the department to bring home the charges. The enquiry based on such charges would stand vitiated, being not fair."

7. In Anil Gilurker v. Bilaspur Raipur Kshetria Gramin Bank & Anr reported in 2011 (5) CTC 564, the Hon'ble Apex Court held as hereunder:

> "7.A plain reading of the charges and the statement of imputations reproduced above would show that only vague allegations were made against the appellant that he had sanctioned loans to a large number of brick manufacturing units by committing irregularities, but did not disburse the entire loan amount to the borrowers and while a portion of the loan amount was deposited in the account of the borrowers, the balance was misappropriated by him and others. The details of the loan accounts or the names of the borrowers have not been mentioned in the charges. The amounts of loan which were sanctioned and the amounts which were actually disbursed to the borrowers and the amounts alleged to have been misappropriated by the Appellant have not been mentioned.
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9. As has been held by this Court in Surath Chandra Chakrabarty v. State of Bengal [1970 (3) SCC 548] :

"5.The grounds on which it is proposed to take action have to be reduced to the form of a definite charge or charges which have to be communicated to the person charged together with a statement of the allegations on which each charge is based and any other circumstances which it is proposed to be taken into consideration in passing orders has also to be stated. This rule embodies a principle which is one of the basic contents of a reasonable or adequate opportunity for defending oneself. If a person is not told clearly and definitely what the allegations are on which the charges preferred against him are founded he cannot possibly, by projecting his own imagination, discover all the facts and circumstances that may be in the contemplation of the authorities to be established against him."

10. This position of law has been reiterated in the recent case of Union of India & Ors v. Gyan Chand Chattar [2009 (12) SCC 78] and in para 35 of the judgment as reported in the SCC, this Court has observed that the law can be summarized that an enquiry is to be conducted against any person giving strict adherence to the statutory provisions and Principles of Natural Justice and the charges should be specific, definite and giving details of the incident which formed the basis of charges and no enquiry can be sustained on vague charges."

8. In light of the decisions cited supra and discussion, we do not find any error in the order impugned before this court warranting interference. Accordingly, the writ appeal is dismissed. However, there shall be no order as to cost. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

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To

1.The Secretary to Government of Tamil Nadu,
Rural Development Department,
Fort St. George, Chennai - 600 009.

2.The Director of Rural Development
Chennai 600 015

3.The District Collector
Thanjavur District
Thanjavur.

+1cc to Mr.M.Ravi, Advocate Sr.11266
+1cc to the Government Pleader Sr.11177

W.A.No.2303 of 2013

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