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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.04.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**

AND

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.A. [MD].No.17 of 2014

and

M.P. (MD) No.1 of 2014

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

2.The Director of Rural Development,
Panagal Building,
Chennai - 600 015.

3.The District Collector,
Madurai - 625 020.

: Appellants

Vs.

M.Murugan,
Formerly Accountant, T.Kallupatti Block
now Deputy Block Development Officer (Audit)
T.Kallupatti Pt. Union,
Madurai,
Madurai District.

: Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 11.02.2011 made in W.P.(MD).No.9011 of 2007, on the file of this Court.

Prayer in WP(MD). 9011/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records relating to the orders passed by the 1st respondent in G.O.(D).no. 155 Rural Development and Panchayat Raj (E.6) department dated 27/03/2007 and quashes the same and further direct the respondents to promote the petitioner with effect from 2003 as Deputy Block development Officer as well as further promotion to the post of Block Development Officer with all service and other monetary benefits.



For Appellants
For Respondent

: Mr.S.Chandrasekar, G.A.
: Mr.A.Thirumoorthy for
M/s.Victory Associates

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.S.Chandrasekar, learned Government Advocate appearing for the appellants and Mr.A.Thirumoorthy, learned counsel for the respondent/writ petitioner.

2.This appeal is directed against the order passed in W.P.(MD) No.9011 of 2007. The writ petition filed by the respondent was disposed of by issuing certain directions. The respondent was issued charge memo dated 07.08.1998 containing 8 Articles of charge. The petitioner questioned the charge memo on the ground that the competent authority to take disciplinary proceeding against the petitioner is the District Collector and he alone can pass final orders on the charge memo issued under Section 17(b) of Tamil Nadu Civil Services(Discipline and Appeal) Rules. However, the disciplinary proceedings was concluded and the Government passed the order vide G.O(D).No.155 dated 27.03.2007. Therefore, the petitioner came before the Court, challenging the said Government order on the ground that the District Collector is the competent authority and on account of the order being passed by the Government, he has been put to prejudice as the Government is the appellate authority over the orders or decision rendered by the disciplinary authority/District Collector.

3.The respondent relied upon the Rule 9(2)(a) of Tamil Nadu Pension Rules 1978 and submitted that since one of the delinquents was a former Block Development Officer and he was not allowed to retire on attaining the age of superannuation, the matter was placed before the Government.

4.The Writ Court examined the matter and found that till the time enquiry officer submitted his report, there is no indication that apart from the petitioner, there are others involved, who are dealt with in respect of the same charge made against the petitioner. Furthermore, the Writ Court placed reliance of the decision of the Hon'ble Supreme Court in the case of **Surjit Ghos Vs. Chairman & Managing Director, United Commercial Bank and Others** reported in **(1995) 2 Supreme Court Cases 474**, holding that the order passed by the superior authority assuming jurisdiction of the original authority goes to the very root of the right of the delinquent officer to file an appeal as well as right of review and ultimately disposed of the writ petition by setting aside the order passed by the Government dated 27.03.2007, directing the District Collector, who is the competent authority



to assume the jurisdiction in the matter within a time frame. On account of his appeal having been entertained, nothing has progressed since 2014 and the petitioner has not been permitted to retire though he attained the age of superannuation during May 2011.

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5.The learned Government Advocate has reiterated the contentions raised before the Writ Court and referred to Rule 9(2) (a) of Tamil Nadu Pension Rules. On facts, the Writ Court found that upto the stage of enquiry, there was no other delinquent is required to be dealt with by the Government.

6.Thus, we find that the reasons assigned by the Writ Court for setting aside the order passed by the Government relegating the matter to the District Collector is perfectly valid and justified.

7.Therefore, the writ appeal is dismissed. The District Collector is directed to conclude the proceedings in terms of the order passed by the Writ Court, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous application is also dismissed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

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PSM/KP/03.05.2017/3P/5C

**JUDGMENT MADE IN
W.A. [MD].No.17 of 2014
and
M.P. (MD) No.1 of 2014
19.04.2017**