



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.06.2017
CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.A(MD)No.511 of 2017
and
C.M.P(MD)No.4394 of 2017

The State of Tamil Nadu,
Rep. By its Principal Secretary of Government,
Public Works Department,
Fort St. George,
Chennai-600 009.

: Appellant/Respondent

Vs.

A.Ravichandran,
S/o, Aandi Vairan Pitchai,
Assistant Executive Engineer,
Public Works Department,
O/o, Chief Engineer (Buildings),
Trichy Region, Trichy

: Respondent/petitioner

Prayer: This Writ Appeal is filed under Clause 15 of Letters Patent Act, to set aside the order, dated 14.06.2016 made in W.P(MD) No.13664 of 2015.

Prayer in WP(MD). 13664/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for records relating to the impugned orders of the respondent dated 27.01.2014 passed in his proceedings in G.O.(D)No.36 and consequential order dated 13.5.2015 passed in his proceedings in G.O.(D) No.131 and quash the same.

For Appellant : Mr.V.R.Shanmuganathan,
Special Government Pleader

For Respondent : Mr.B.Prahalad Ravi

JUDGMENT

(Judgment of the Court was delivered by **T.S.SIVAGNANAM, J**)

Heard Mr.V.R.Shanmuganathan, Special Government Pleader
<https://hcservices.ecourts.gov.in/hcservices/>
appearing for the appellant and Mr.B.Prahalad Ravi, appearing for the respondent.



2. This appeal by the Government is directed against the order in W.P.(MD)No.13664 of 2015 dated 14.06.2016. The said writ petition was filed by the respondent herein to quash the order passed in G.O.(D) No.36, Public Works (E1) Department, dated 27.01.2014 and the consequential order dated 13.05.2015 passed by the appellant. By the said orders, a punishment has been imposed on the respondent by directing withholding of increment with cumulative effect for a period of two years for proven charge. The respondent was arrayed as second accused officer in a case, which was referred to the Tribunal for disciplinary proceedings, Chennai. The first accused officer is the Executive Engineer of the Public Works Department. The allegation was that both of them connived and committed grave official misconduct in the matter of calling for tenders and violated the provisions of the Tamil Nadu Transparency in Tenders Act and the Rules framed thereunder.

3. When the matter was taken up for consideration by the Tribunal for disciplinary proceeding, the Investigating Officer examined himself and stated that there is no allegation/complaint against the respondent/writ petitioner and the entire case has been cooked up and has made as kept pending. Based on such evidence, the Tribunal came to the conclusion that there is no case made out against the respondent and accordingly, made appropriate recommendations, apart from directing the disciplinary action to be initiated against the officers, who were instrumental in framing the charges against the respondent. On receipt of the said report from the Tribunal, the Government was not inclined to accept the same and issued notice to the respondent stating that they proposed to deviate from the finding rendered by the Tribunal for disciplinary proceedings.

4. We find that the reasons for deviation is only on the ground that the evidence to be verified had not been properly appreciated by the Enquiry Officer. In our considered view, this can hardly be the reason for reversing the finding of the Tribunal for disciplinary proceedings, especially, when the Investigating Officer himself had deposed before the Tribunal that there is no allegation or charge against the respondent. Thus, if the Government is of the opinion that the finding of the Tribunal is incorrect, there should be some material available with the Government to disagree with the finding and such material should be put forth to the respondent so as to enable him to submit his defence. Conspicuously in the instant case, no valid reason for deviation has been mentioned except to state that the evidence to be verified has not been properly appreciated. This can hardly be the ground for defer from the finding of the Tribunal for disciplinary proceeding. Further, the Writ Court was perfectly right in observing that the reasons are the heart beats of any administrative or judicial order. Therefore, the Writ Court is fully justified in allowing the writ petition and setting aside the order of punishment.



5. The learned Special Government Pleader submitted that Tribunal for disciplinary proceedings exceeded in his jurisdiction by directing the action to be initiated against the officers, who were instrumental in framing the charges against the respondent. We are in agreement with the learned Special Government Pleader on this issue, as the Tribunal could not have overstepped and issued a recommendation to the Government.

6. In the result, this Writ Appeal stands dismissed and the order passed in the writ petition is affirmed and we make it clear that the recommendation made by the Tribunal for Disciplinary Proceedings to initiate action against the officers of the Department, who were instrumental in framing charges against the respondent, will not be binding on the Government, as it is beyond the jurisdiction of the Tribunal. Consequently, connected Miscellaneous Petition is closed. No Costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The Principal Secretary of Government,
Public Works Department,
Fort St. George,
Chennai-600 009.

+1cc to B.Prahalad Ravi, Advocate in SR.No.58429
+1cc to Special Government Pleader in SR.No.58126

Mrn/RR

AE/MR/SAR3/12.06.2017/3P/4C

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