



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.10.2017
CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P (MD) No.19404 of 2017

K.Vajravelu

... Petitioner

Vs.

The Sub Collector,
Palani Division, Palani,
Dindigul District.

... Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the respondent i.e., the Sub Collector, Palani relating to the proceeding No.Na.Ka.3555/17/A3, dated 31.08.2017 withholding the increment of the petitioner for a period of three months with cumulative effect and quash the same.

For Petitioner	: Mr.S.Visvalingam
For Respondent	: Mr.A.K.Baskarapandian Special Government Pleader

O R D E R

The writ petitioner was working as Village Administrative Officer, Ambilikkai Group, Ottanchatram Taluk. He was issued with a charge memo dated 28.06.2017. The charge itself was in respect of making a patta entry on 08.12.2012. The petitioner herein reached the age of superannuation on 30.06.2017. It is thus seen that virtually on the eve of retirement, the charge memo was issued. Be that as it may, the petitioner was allowed to retire without prejudice to the pending disciplinary action. Enquiry was conducted. The petitioner herein submitted his explanation. Thereafter, by the impugned order dated 31.08.2017, the respondent herein found the charges to be established and levied the punishment of stoppage of increment for three months with cumulative effect.

2.Heard the learned counsel for the writ petitioner as well as the learned Special Government Pleader for the respondent.

3.The learned counsel for the writ petitioner pointed out that since the writ petitioner reached the age of superannuation on 30.06.2017, the question of accrual of increment does not arise. Hence, there cannot be levy of punishment of stoppage of



increment. The Government has issued a letter dated 02.11.1998 clarifying that punishments that cannot enforced cannot be levied. Hence, on the very face of it, the impugned order is bad in law.

4. The learned Special Government Pleader submitted that in such cases, the increment amount will be quantified and recovered from the delinquent employee. Such a course of action has been specifically frowned upon in the aforesaid letter dated 02.11.1998.

5. The learned counsel appearing for the writ petitioner has enclosed a copy of the Government letter. The submission made by the learned Special Government Pleader for the first respondent runs counter to the said Government communication and therefore it cannot be accepted. The case on hand is covered by order dated 03.09.2007 in W.A.(MD) No.239 of 2007. The impugned order stands quashed. The writ petition is allowed. No costs.

Sd/-

Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To

The Sub Collector,
Palani Division, Palani,
Dindigul District.

+ 1 CC TO MR.Mr.S.Visvalingam, ADVOCATE IN SR No.83053

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.83138

skm

MK/MR KKR/SAR-2/31.10.2017/2P/4C

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