



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2017

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD).Nos.8127 and 8128 of 2016
and
W.M.P(MD)Nos.6643 of 2016, & 6645 of 2016

R.Elangovan,
Assistant Executive Engineer-PED/WRD,
River Cauvery Sub-Division,
Tiruchirappalli.

...Petitioner in both WP's

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Public Works Department,
Ft. St. George, Chennai-9.

2.Engineer-in-chief (Buildings) & Chief Engineer (Buildings),
Chennai Region and Chief Engineer (General), PWD,
Chepauk, Chennai-5.

3.The Inquiry Officer/Executive Engineer, WRD,
Vaipar Basin Division,
Virudhunagar.

...Respondents 1 to 3 in both WP's

4.The Executive Engineer PWD,
River Conservancy Division,
Trichy.

...Respondent No.4 in WP(MD)No.8128/2016

PRAYER in W.P.(MD).No.8127 of 2016: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the orders of the 1st respondent imposing punishment of stoppage of increment for a period of six months without cumulative effect in G.O.(D)No.244 Public Works (E2) Department, dated 28.08.2014 and consequential rejection of review petition in G.O.(D)No.75 Public Works (E2) Department, dated 09.03.2016 and quash the same.

PRAYER in W.P.(MD).No.8128 of 2016: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the orders of the 1st respondent in G.O.(D)No.319 Public Works (E2) Department, dated 18.11.2014 and consequential proceedings of the 4th respondent in No.E1/835/2016, dated 04.01.2016 and quash the



same and consequently direct the 1st respondent to regularize the service of the petitioner treating the period 18.10.2012 to 01.07.2014 as duty period with all benefits accrued to the petitioner.

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For Petitioner : Mr.M.Subash Babu,
For Respondents : Mr.J.Gunaseelan Muthiah,
Government Advocate.

COMMON ORDER

The Writ Petition in W.P.(MD). No.8127 of 2016 has been filed by the petitioner, calling for the records relating to the orders of the 1st respondent, imposing punishment of stoppage of increment for a period of six months without cumulative effect, vide G.O.(D) No.244 Public Works (E2) Department, dated 28.08.2014 and consequential rejection of review petition in G.O.(D)No.75 Public Works (E2) Department, dated 09.03.2016 and quash the same.

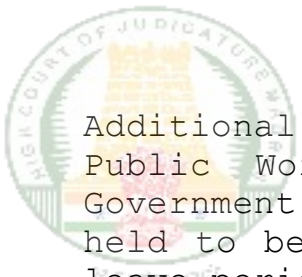
2. The Writ Petition in W.P.(MD). No.8128 of 2016 has been filed, calling for the records relating to the order of the 1st respondent in G.O.(D)No.319 Public Works (E2) Department, dated 18.11.2014 and the consequential proceedings of the 4th respondent in No.E1/835/2016, dated 04.01.2016 and quash the same and consequently direct the 1st respondent to regularize the service of the petitioner treating the period from 18.10.2012 to 01.07.2014 as duty period with all benefits accrued to him.

3.Heard Mr.M.Subash Babu, learned counsel appearing for the petitioner and Mr.J.Gunaseelan Muthiah, learned Government Advocate for the respondents.

4.The petitioner was appointed as Assistant Engineer in Public Works Department in the year 1987. While he was in service as Assistant Executive Engineer at Thiruthuraipoondi, he was placed under suspension and a charge memo was issued to him. Though the Enquiry Officer gave a finding that the charges have not been proved, the disciplinary authority namely, the first respondent proceeded further with the enquiry on the ground that the report of the Enquiry Officer is not proper and perverse. Since the allegations against the petitioner are serious in nature, the first respondent gave an opportunity to the petitioner. After getting further representation from the petitioner, final order was passed by proceedings dated 28.08.2014, imposing punishment of withholding increment for a period of six months without cumulative effect. Pursuant to the impugned order dated 28.08.2014, the Government issued G.O.(D)No.319, Public Works (E2) Department, dated 18.11.2014.

<https://hcservices.ecourts.gov.in/hcservices/>

5.Thereafter, the petitioner filed a review petition before the Government and the review petition was also dismissed by the



Additional Chief Secretary to Government, vide G.O.(D)No.75, Public Works (F2) Department, dated 09.03.2016. As per the Government order, dated 18.11.2014, the period of suspension was held to be justified and the period of suspension was treated as leave period.

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6.The petitioner has also filed W.P.(MD)No.8127 of 2016 challenging the Government Order vide G.O.(D)No.244, Public Works (E2) Department, dated 28.08.2014 and the consequential order, rejecting the review petition, vide G.O.(D)No.75, Public Works (F2) Department, dated 09.03.2016. The petitioner has also filed another W.P.(MD)No.8128 of 2016 to quash the consequential order vide G.O.(D)No.319, Public Works (E2) Department, dated 18.11.2014.

7.The facts are not in dispute in this case. Going by the order passed by the first respondent, vide G.O.(D)No.244, Public Works (E2) Department dated 28.08.2014, this court finds that the first respondent has passed a cryptic order which is extracted here under:-

"The Government after examining carefully and independently the charges framed, defence statement of the delinquent officer, findings of the inquiry officer, reasons for deviation from the findings of the inquiry officer and further representation of the delinquent officer in detail along with the connected records concluded that the further representation of the delinquent officer was not convincing and therefore, decided to hold both the charges as proved against Thiru.R.Elangovan, Assistant Executive Engineer, Water Resources Department. For the charges held proved, the Government have decided to impose the punishment of withholding of increment for a period of six months without cumulative effect on Thiru. R. Elangovan, Assistant Executive Engineer, Water Resources Department. Accordingly, the Government order that the punishment of withholding of increment for a period of six months without cumulative effect be imposed on Thiru.R.Elangovan, Assistant Executive Engineer, Water Resources Department, for the proven charges against him. The punishment is exclusive of leave period if any spent by the delinquent officer and it will not affect his pension."

8.In his further representation to the second show cause notice, the petitioner apart from referring to the report of Inquiry Officer with reference to documents, the petitioner has raised several legal issues involving interpretation of the provisions of Tamil Nadu Government Servants Conduct Rules, 1973. Even while giving reason for holding the charges as proved, disagreeing with the findings of the Inquiry Officer, the first



respondent has only observed that the Inquiry Officer has wrongly accepted the convoluted logic of the accused officer/petitioner. The Inquiry Officer has given his findings based on documents and after considering the charges in the light of the provisions of Tamil Nadu Government Servants Conduct Rules, 1973. Hence even the reasons disagreeing with the findings of the Inquiry Officer do not indicate application of mind. Since reasons are the links between the materials on which conclusions are reached and the actual conclusions, the Hon'ble Supreme Court in several precedents has held that the reasons should reveal the link between the facts considered and the conclusions reached. In the case of S.N.Mukerjee Vs. Union of India reported in AIR 1990 SC 1984, the Hon'ble Supreme Court has held that reasons should be clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. In this case, the points raised by the petitioner in his further explanation were not considered.

9.Except stating that further representation of the petitioner and connected records are considered, there is no discussion or consideration of the case of the petitioner on merits. The order of the first respondent is, therefore, cryptic and without reasons. Hence, the impugned order cannot stand and therefore, it is set aside. Since the consequential order in the review petition is also cryptic, without assigning any reason, this court set aside the order impugned in the writ petitions. However, the respondents are given liberty to pass orders afresh, after considering the further representation and explanations offered by the petitioner and giving a personal hearing to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. The order impugned in W.P.(MD).No.8128 of 2016 is also consequential to the impugned order, vide G.O.(D)No.244 Public Works (E2) Department, dated 28.08.2014. Since G.O.(D) No.244 Public Works (E2) Department, dated 28.08.2014 is quashed, this Court set aside the consequential order, giving liberty to the respondents to pass appropriate orders depending upon the final order that may be passed pursuant to the direction of this Court in W.P.(MD).No. 8127 of 2016.

10. The Writ Petitions are allowed to the extent indicated above. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(RTI)

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To

1.The Secretary,
Public Works Department,
Ft. St. George, Chennai-9.

2.Engineer-in-chief (Buildings) & Chief Engineer (Buildings),
Chennai Region and Chief Engineer (General), PWD,
Chepauk, Chennai-5.

3.The Inquiry Officer/Executive Engineer, WRD,
Vaipar Basin Division, Virudhunagar.

4.The Executive Engineer PWD,
River Conservancy Division,
Trichy.

+2CC to M/S.M.Subas Babu, Advocate, SR.No. 19118, 19119
+1CC to the Special Government Pleader SR.No.19284

ORDER MADE IN
W.P.(MD).No.8127 and 8128 of 2016
and
W.M.P(MD)Nos.6643 of 2016, & 6645 of 2016
03.04.2017

KM/MR
AM/RSK/SAR-2/13.04.2017/5P/8C