

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.20362 of 2005

and

W.M.P.No.22224 of 2005

K.Chinnamuthu

..Petitioner

vs

The District Collector,
Namakkal District,
Namakkal.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari Mandamus, calling for the records of the respondent in connection with the impugned order passed by the respondent in Na.Ka.No. 4118/2002/N.M.Scheme I dated 17/05/2005 and quash the same.

For Petitioner : Mr.K.Venkata Ramani, Senior Counsel
for Mr.M.Muthappan

For Respondents : Mr.G.B.Rajesh,
Government Advocate.

O R D E R

The order of punishment dated 17.05.2005, imposing the punishment of stoppage of increment for one year without cumulative effect, is under challenge in this writ petition.

2. The writ petitioner was appointed as a Noon-Meal Organiser in Rasipuram Panchayat Union in the year 1983. During the surprise inspection by the Competent Authorities, certain irregularities were found in the Noon-Meal Center. Consequently, disciplinary proceedings were initiated against the writ petitioner and the writ petitioner submitted his explanations on 19.02.2002, denying the charges. The Block Development Officer, Kollimalai was appointed as an Enquiry Officer. The said Enquiry Officer conducted an enquiry and the writ petitioner had participated in the process of enquiry.

3. Based on the enquiry report and based on the proved charges, the punishment of stoppage of increment for one year without cumulative effect was issued against the writ petitioner.

4. The learned Senior Counsel, appearing on behalf of the writ petitioner, mainly relied on the ground that the copy of the enquiry report had not been served to the writ petitioner, enabling him to raise his objections on the findings of the Enquiry Officer. Thus the process of enquiry conducted is improper and is in violation of the principles of natural justice. The learned Senior Counsel is of the opinion that the non-adherence of the compliance of the rules caused prejudice to the writ petitioner. The findings recorded by the Enquiry Officer are not known to the writ petitioner and therefore, he was deprived of his opportunity to submit his objections on the enquiry report.

5. Learned Government Advocate, appearing on behalf of the respondent, is unable to establish that the enquiry report had already been served to the writ petitioner.

6. In this view of the matter, the case deserves to be remanded for providing an opportunity to the writ petitioner by serving a copy of the enquiry report and for receiving the objections of the writ petitioner on the findings of the enquiry report.

7. Accordingly the impugned order of punishment passed by the respondent in proceedings dated 17.05.2005 is quashed. The respondent is directed to serve the copy of the enquiry report to the writ petitioner within a period of 4 weeks from the date of receipt of a copy of this Order. The writ petitioner is directed to submit his further explanations/objections on the enquiry report, within a period of 15 days from the receipt of the copy of the enquiry report. On receipt of the explanations/objections from the writ petitioner, the respondent / Competent Authority is empowered to pass final orders in the disciplinary proceedings on merits and in accordance with law, within a period of 12 weeks thereafter.

8. With the above directions, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

The District Collector,
Namakkal District,
Namakkal.

+1cc to Mr.M.Muthappan, Advocate sr.no.83936

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nr 03/01/2019