

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P.No.19239 of 2007

A.Raja

...Petitioner

Versus

1. The Regional Deputy Director of Survey and Land Records,
Trichy.

2. The Assistant Director of Survey and Land Records,
Perambalur District. ... Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records connected with the proceedings issued in Na.Ka.A7/2615/00, dated 27.10.2004 passed by the 2nd respondent and Na.Ka.A2/9438/04, dated 15.02.2006 passed by the 1st respondent and quash the same.

For Petitioner : Mr.S.Ilamvaludhi
For Respondents : Mr.K.Ravikumar, AGP

O R D E R

The petitioner has filed this writ petition challenging the orders of the second respondent, wherein the punishment of stoppage of three increments for a period of three years with cumulative effect on 27.10.2004 was ordered and the rejection order of the appellate authority/first respondent dated 15.02.2006.

2. The case of the petitioner is that he entered into service as surveyor on 13.08.1983 and retired from service on superannuation on 31.08.2013. While he was working as a mobile unit surveyor, in the year 2000, a memo of a single charge initially, was issued under Rule 17 (a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Thereafter, the Disciplinary Authority changed the charge and imposed punishment under Rule 17 (b) of the Rules. The enquiry officer found the charges unproved. However, without giving any opportunity to the petitioner, the disciplinary authority passed the punishment of stoppage of increment for three years without cumulative effect.

3. Aggrieved by the said order, the petitioner filed an appeal before the first respondent. The first respondent after analysing the entire records, modified the punishment from 3 years to 1 year stoppage of increment without cumulative effect. Against the said order of the first respondent, the petitioner has filed this writ petition.

4. The learned counsel for the petitioner submitted that the disciplinary authority, viz., the Assistant Director of Survey and Land Records, without issuing second show cause notice passed, the punishment of stoppage of increment for three years without cumulative effect and though the appellate authority modified the order of punishment for one year without cumulative effect, which are clear violation of principles of natural justice. Hence, the petitioner prayed for allowing this writ petition.

5. I have gone through the entire records and the fact that the petitioner was issued a charge under Rule 17 (a) of the Rules was not in dispute. Subsequently, on verification of the charge memo, it is seen that the charge was converted into one under Rule 17 (b) of the Rules. Though there was much force in the contention of the learned counsel for the petitioner, that the second show cause notice may be issued before passing the impugned order, if the second show cause notice issued, the petitioner may put-forth his grievance before the Appellate Authority. The valuable rights available to the petitioner before the Appellate Authority is deprived for non issuance of show cause notice. However, the present case, though there are four persons involved in the same occurrence, all the persons awarded stoppage of increment for three years. However, on appeal the punishment relating to other persons was reduced from three years to six months.

6. The case of the petitioner is that considering on par with the other person, the appellate authority did not pass the detailed order and why he has not differed the punishment from the one already imposed, by reducing the punishment to the petitioner on par with the other persons and since the order is not in detail and without considering the petitioner's grievance, simply the authority rejected the appeal confirming the order passed by original authority which is non est in law.

7. By setting aside the order of the appellate authority alone, the matter is remanded back to the appellate authority for fresh consideration. The said exercise shall be completed within a period of six months from the date of receipt of a copy of this order after following the due process of law.

8. With the above terms, this Writ Petition is allowed in part. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vsg

To

1. The Regional Deputy Director of Survey and Land Records,
Trichy.
2. The Assistant Director of Survey and Land Records,
Perambalur District.

+lcc to Government Pleader SR.NO.45720

PPA(CO)
sm:18.9.2018

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