



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 15.11.2018

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.(MD)No.19716 of 2018

K.Elango

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Karur Revenue Office,
Karur District.

2.The Tahsildar,
Aravakurichi Taluk,
Karur District.

... Respondents

Prayer: Writ Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records to the order passed by the first respondent in R.C.No.A3/3292/2009 dated 21.08.2018 and quash the same.

For Petitioner : Mr.C.Vakeeswaran

For Respondents : Mr.J.Gunaseelan Muthiah

Additional Government Pleader

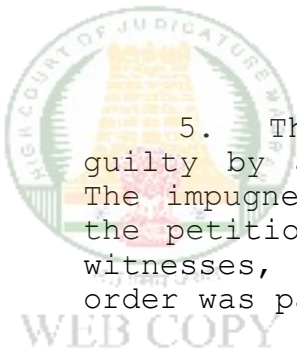
ORDER

The petitioner herein was dismissed from service, since he was found guilty and convicted for the offences punishable under Sections 13(2) and 13(1)(d) of the Prevention of Corruption Act, 1988, by the trial Court in C.C.No.130 of 2011 on the file of the Special Court for Prevention of Corruption Act cases, Trichy.

2. No doubt the petitioner herein was found guilty and convicted. But before passing impugned order of dismissal, an opportunity should have been given against the proposed penalty. From the impugned order, this Court finds that the petitioner herein was issued with a show cause notice and offered an opportunity to represent against the proposed penalty and it is also seen from the impugned order that a written representation was given by the petitioner.

3. However, it is contended by the learned counsel appearing for the petitioner that in the written statement, the petitioner herein had sought for examining the witnesses and without offering an opportunity to examine the witnesses, the impugned order has been passed, which clearly indicates the arbitrariness in the action of the respondents.

4. The learned Additional Government Pleader appearing for the respondents would submit that the order of dismissal came to be passed only after the conviction of the petitioner herein by a competent Court. Having been convicted, the Service Rules does not permit a person to retain in a Government Office. Therefore, there is no illegality in the impugned order.



5. The petitioner was dismissed from service, since he was found guilty by a criminal Court and sentenced to three years imprisonment. The impugned order of dismissal is challenged on the ground that though the petitioner herein sought for an opportunity to examine departmental witnesses, opportunity was not given and consequently, the dismissal order was passed.

6. Reading of the impugned order does not disclose about the witnesses or exhibits. On that score, the impugned order is liable to be set aside. The first respondent herein is directed to issue a fresh charge memo and conduct denovo enquiry and pass appropriate orders, within a period of three months from today. If the petitioner is paid any subsistence allowance, it shall continue to be paid till then. If the petitioner herein fails to cooperate with the enquiry proceedings of his dismissal within a period of three months, the authority can take a decision of withdrawing the subsistence allowance payable to him.

7. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1.The Revenue Divisional Officer,
Karur Revenue Office, Karur District.

2.The Tahsildar,
Aravakurichi Taluk,
Karur District.

• 1 CC TO Mr.C.Vakeeswaran , ADVOCATE IN SR No. 95563.
+1 cc to Special Government Pleader, SR.No.95644.

SM
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Order made in
W.P.(MD)No.19716 of 2018
15.11.2018