

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.A.No.393 of 2010 and
M.P.No.1 of 2010

1. State of Tamil Nadu
Rep. by Chief Secretary to Government
Public (Special-A) Department,
Fort St. George,
Chennai-600 009.
2. The Principal Secretary/
Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai-600 005.Appellants

...Vs...

A.ArunachalamRespondent

Prayer:- Writ Appeal filed under Clause 15 of Letter Patent Act,
to set aside the order dated 19.12.2009 passed in W.P.No.13444
of 2009.

Prayer in W.P.No.13444 of 2009 : Writ of Certiorari to call for
the records of the Second Respondent, dated 28/03/2009 in PANI 2
(2)/22357/08 and quash the said proceedings dated 28/06/2009.

For Appellants : Ms.Srijayanthi
Special Government Pleader

For Respondent : No appearance

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The learned single Judge while quashing the Charge Memo,
granted bonus to the respondent by directing the Government to
promote him to the post of District Revenue Officer. Feeling

aggrieved, the appellants have come up with this intra court appeal.

2. This appeal came up for hearing on 06.02.2019. Since there was no appearance on behalf of the respondent, we have adjourned the matter to be posted today under the caption 'for orders'. Even today, none appears on behalf of the respondent.

3. The Principal Secretary/Commissioner of Revenue Administration issued a Charge Memo to the respondent on 28 June 2009, containing altogether four charges. The disciplinary authority initiated proceedings under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The respondent submitted his explanation on 8 July 2009. During the currency of the disciplinary proceedings, the respondent claimed promotion. The pendency of the Charge memo was cited as the reason for denying the claim of promotion. The respondent filed the Writ Petition challenging the Charge Memo.

4. The Writ Petition was opposed by the appellants herein primarily on the ground that during the currency of the Charge memo and initiation of proceedings under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, it would not be possible to promote the respondent.

5. The learned Single Judge quashed the Charge Memo and issued a further direction to promote the respondent to the post of District Revenue Officer.

5. The disciplinary authority framed as many as four charges against the respondent. The respondent submitted his explanation to the Charge Memo. However, the said explanation was not found satisfactory, resulting in taking further proceedings by the disciplinary authority. The proceedings were pending before the enquiry officer and it was only at that stage, the respondent filed the Writ Petition.

6. The learned single Judge arrived at a factual conclusion that there is no merit in the charge memo. It is not for the writ court to analyse the materials to arrive at such a conclusion. The disciplinary authority, who is the employer, should decide the said issue, after considering the enquiry report. The learned single Judge has taken up the role of the disciplinary authority and after discussing the facts, the Writ Petition was allowed.

7. There are as many as four charges framed against the respondent. There is no question of quashing the charge memo on the basis of the grounds indicated in the order passed by the learned single Judge. Similarly, there is no question of giving promotion to the respondent during the currency of the

disciplinary proceedings.

8. We are therefore of the view that the learned single Judge was not justified in quashing the Charge Memo and directing promotion to the respondent.

9. We set aside the order dated 19 December 2009. The Writ Petition in W.P.No.13444 of 2009 is dismissed.

10. In the upshot, we allow this intra court appeal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

arr

To

1. The Chief Secretary to Government
Public (Special-A) Department,
Fort St. George,
Chennai-600 009.
2. The Principal Secretary/
Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai-600 005.

+1cc to Government Pleader SR.No.11390

W.A.No.393 of 2010

PK (CO)
GMY (22/03/2019)

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