

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.22165 of 2015

and

MP.No.1 of 2015

A.Siluvai Prakasam

...Petitioner

Vs.

State Rep. by

1.The Principal Secretary to Govt. of Tamil Nadu
Micro Small and Medium Enterprises
Secretariat, St.George Fort,
Chennai-9.

2.Industries Commissioner
Director of Industries and Commerce
Guindy, Chennai-32.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in G.O.(2D) No.13, Micro, Small and Medium Enterprises (E-II-2) Department dated 08.08.2014 from the file of the 1st respondent and quash the same and further direct the respondents 1 & 2 to grant all promotions, selection grade, special grade and other monetary benefits etc., with retrospective effect as eligible for other same batch officers (1983 TNPSC Group II Service Recruitment).

For Petitioner : Mr.M.J.Sundar

For Respondents : Mr.R.Govindasamy
Special Government Pleader
for R1

O R D E R

This writ petition is filed challenging the order of the first respondent dated 08.08.2014, wherein and whereby, the appeal filed by the petitioner was rejected. Consequently, the petitioner seeks for a direction to the respondents 1 & 2 to grant all promotions, selection grade, special grade and other monetary benefits etc., with retrospective effect.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the first respondent.

3. The petitioner was working as a Industrial Cooperative Officer. During the relevant point of time, the petitioner was issued with a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeals) Rules, followed by an enquiry. The Disciplinary Authority viz., the second respondent herein, imposed a punishment of stoppage of annual increment for two years with cumulative effect. Challenging the said order, the petitioner preferred an appeal before the first respondent, who in turn has rejected the same by passing the impugned order dated 08.08.2014.

4. Perusal of the impugned order dated 08.08.2014, would show that the first respondent except by extracting the views of the Tamil Nadu Public Service Commission, has not independently expressed his views and findings as to how the appeal is liable to be rejected. In other words, the impugned order does not indicate an independent application of mind by the first respondent, being the first Appellate Authority, to the facts and circumstances of the case as well as the grounds raised in the appeal. Needless to say that the Appellate Authority, being the fact finding authority, is bound to look into the matter and give his independent reasonings and findings as to how the order of punishment is either sustainable or liable to be rejected. Instead, in this case, the first respondent has simply rejected the appeal as devoid of merits without having any supportive reasonings and findings. Therefore, this Court without expressing any view on the merits of the matter, is inclined to remit the matter back to the first respondent to pass a speaking order.

5. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the first respondent to consider the appeal once again on merits and pass fresh orders in accordance with law by giving independent reasonings and findings. Such exercise shall be done by the first respondent within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-Insp.Cell)

//True copy//

Sub Assistant Registrar

mk

To

1.The Principal Secretary to Govt. of Tamil Nadu
Micro Small and Medium Enterprises
Secretariat, St.George Fort,
Chennai-9.

2.Industries Commissioner
Director of Industries and Commerce
Guindy, Chennai-32.

+1cc to Government Pleader SR.No.29185

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KAN (CO)
GMY (25/04/2019)



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