IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.7160 of 2015
and
M.P.No.1 of 2015

M.Alagirisamy ...Petitioner

Vs.

1. State of Tamil Nadu,
   Represented by its Secretary to Government,
   Revenue Department,
   Secretariat, Chennai - 600009.

2. Additional Chief Secretary/Commissioner
   of Revenue Administration,
   Chepauk, Chennai - 600005. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 1st respondent in G.O.(2D)No.709, Revenue {Ser.2(3)} Department, dated 03.09.2014 and quash the same, and direct the respondents to confer all the consequential benefits including promotion to the post of Deputy Collector from the date on which his junior came to be promoted.

For Petitioner : Mr.M.Ramadass

For Respondents: Mr.S.N.Parthasarathy
Government Advocate

O R D E R

The petitioner is aggrieved against the order passed by the first respondent dated 03.09.2014 imposing punishment of stoppage of increment with cumulative effect for 3 years.

2. While the petitioner was working as a Special Tahsildar (Stamps) in Attur, Salem District, a charge memo dated 18.09.2008 was issued on him on two counts viz., (i) while he was working as Assistant in the office of the Special Deputy

Collector (Stamps) from 11.03.1998 to 30.04.1999, he failed to verify the genuineness of the remitted challan and recommended for release of the documents (ii) thereby, failed to maintain absolute integrity. The petitioner submitted his explanation on 13.02.2009. The Enquiry Officer was appointed and he conducted enquiry and submitted a report. The petitioner was asked to submit his explanation on the report submitted by the Enquiry Officer. Accordingly, the petitioner has submitted his explanation on 04.11.2010. Not being satisfied with the explanation, the first respondent has passed the impugned order.

3. Though several contentions are raised on the merits of the charges levelled against the petitioner, this Court is not inclined to go into such contentions and express any view for the time being, since this Court is convinced to interfere with the impugned order and remit the matter back to the first respondent for passing fresh orders only on the ground of non-application of mind of the first respondent and that the impugned order is totally a non-speaking one.

4. The reasons for such conclusion is as follows:

Admittedly, the first respondent is the Disciplinary Authority, who passed the impugned order of punishment, as the Original Authority. Therefore, it goes without saying that the Disciplinary Authority, while passing the order of punishment, has to discuss the merits of the contentions raised by the Delinquent Officer and the findings rendered by the Enquiry Officer and thereafter, arrive at his own independent findings and reasonings to justify the conclusion so arrived. In this case, the first respondent, after extracting the charges, defence statement of the Delinquent Officer, findings of the Enquiry Officer and further representation of the Delinquent Officer on the findings of the Enquiry Officer, has not given his own findings and reasonings for imposing punishment. On the other hand, the first respondent extracted the portions of the findings rendered by the Enquiry Officer and observed that for the proven charges, the first respondent has decided to impose the punishment. Admittedly, the petitioner has made further representation on the findings of the Enquiry Officer. Therefore, the first respondent should have discussed such objections as well and then come to the conclusion. In this case, the first respondent has not done so.

5. Therefore, this Court is of the view that the impugned order is a non-speaking one and therefore, cannot be sustained. Since this Court is inclined to remit the matter back to the first respondent, it is not expressing any view on the merits of the charges levelled against the petitioner. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the first

respondent to pass fresh orders with reasons and findings on merits and in accordance with law. 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-IV)

//True Copy//

Sub Assistant Registrar

Mk

To

1. The Secretary to Government,
   Revenue Department,
   Secretariat, Chennai - 600009.

2. Additional Chief Secretary/Commissioner
   of Revenue Administration,
   Chepauk, Chennai - 600 005.

+1cc to Mr.M.Ramadass, Advocate, S.R.No. 36453
+1cc to the Government Pleader, S.R.No. 37084

W.P.No.7160 of 2015

PMS(CO)
GN(25/04/2019)