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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on
17.12.2019

Delivered on
19.12.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.22472 & 22473 of 2018

and

WMP Nos.26333, 26334, 26336 & 26337 of 2018

V.Saradha Rukmani,
Special Deputy Collector (SSB),
Collectorate,
Salem.
Residing at:-
No.70,Kayal apartment,
Tamilsangam Road,
Salem-7.

... Petitioner in Both WPs

.Vs.

1.State of Tamil Nadu,
Rep.by its Secretary to Government,
Revenue Department,
Secretariat,
Chennai-9.

2.State Rep.by its
Principal Secretary and
Commissioner of Revenue Administration,
Ezhilagam, Chempauk,
Chennai-5.

3.The District Collector,
Trichy District.

... Respondents in W.P.No.22472 of 2018

1.State of Tamil Nadu,
Rep.by its Secretary to Government,
Public (Special-A) Department,
Secretariat,
Chennai-9.

2.The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
Secretariat,Chennai-9.



3.State Rep.by its
Principal Secretary and
Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai-5.

... Respondents
in W.P.No.22473 of 2018

PRAYER in W.P.No.24272 of 2018: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned charge memo issued by the 2nd respondent in proceedings Noser.2(2)/42105/2013 dated 20.03.2017, quash the same.

PRAYER in W.P.No.24273 of 2018: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 1st respondent dated 02.02.2018 issued in Letter No.1775/A4/2017 Public (Special-A) Department quash the same insofar so deferring the petitioner's name for inclusion in the panel of District Revenue Officer and consequently direct the respondents to include her name in the list of District Revenue Officers for the year 2016 with all attendant service benefits, including seniority, promotion to the post of District Revenue Officer along with monetary benefits.

For Petitioner : Mr.R.Yashod Vardhan
(both WPs) Senior Counsel
fo Mr.C.Gauthamaraj

For Respondents: Mr.P.S.Sivashanmugasundaram
(both WPs) Special Government Pleader

COMMON ORDER

The petitioner has challenged the impugned charge memo issued by the 2nd respondent in his proceedings dated 20.03.2017 and the same is the subject matter of challenge in W.P.No.22472 of 2018. The petitioner has also challenged the impugned order passed by the 1st respondent deferring the name of the petitioner for inclusion in the panel for the promotion to the post of District Revenue Officer for the year 2016 and this is made as a subject matter of challenge in W.P.No.22473 of 2018.

2.A decision taken in W.P.No.22472 of 2018, will have a direct bearing on the relief that has been sought for by the petitioner in W.P.No.22473 of 2018. Therefore, this Court proceeds to first take up the issue that is involved in W.P.No.22472 of 2018.

3.The petitioner joined as a Junior Assistant in the Revenue Department in the year 1984. The petitioner was



subsequently promoted and ultimately she reached the post of Deputy Collector with effect from 11.02.2011. The petitioner was expecting for the next promotion to the post of Deputy Revenue Officer and the crucial date for the drawl of the panel was 1st of April and this crucial date fell on 01.04.2016. At that point of time, a charge memo dated 20.03.2017, came to be issued against the petitioners and this was done just prior to the name of the petitioner being included in the panel of District Revenue Officer for the year 2016.

4.The allegations that have been made in the charge memo is to the effect that the petitioner has made certain changes in the revenue accounts of Thiuvverumbur Taluk for S.F Nos.121 to 134, without obtaining specific orders of the Commissioner of Land Administration and in the guise of implementing the orders of the Assistant Settlement Officer, Chennai. This charge memo has become the subject matter of challenge in the present writ petition.

5.Mr.R.Yashod Vardhan, learned Senior Counsel appearing on behalf of the petitioner submitted that the petitioner was victimised and there is absolutely no basis for issuing a charge memo against the petitioner and commencing the departmental proceedings. The learned Senior Counsel submitted that the Village Kumbagudi Velayuthangudi of Trichy Taluk and District was taken over by the Government on 18.11.1970 under Act 26 of 1963. The settlement was introduced in fasli 1381 in old S.F.No.1 which corresponds to the new S.F.No.121 to 134.

6.The learned Senior Counsel submitted that the aggrieved persons approached the Inam Abolition Tribunal [Principal Subordinate Judge, Trichy] by filing CMA.No.1 of 2008 and CMA No.33 of 2009 and they sought for grant of Ryotwari patta to their lands in S.Nos.121 to 134. The learned Senior Counsel further submitted that separate judgments came to be passed in both the appeals and both the appeals were allowed and the authorities were directed to grant Ryotwari patta in favour of the appellants within one month. The learned Senior Counsel brought to the notice of this Court the orders that were passed in both the CMAs and the orders are found at page 52 and 56 of the typed set of papers.

7.The learned Senior Counsel submitted that the Assistant Settlement Officer, Chennai by his proceedings dated 28.02.2011, had directed the Tahsildar to make necessary changes in the revenue accounts in compliance of the orders passed by the Inam Abolition Tribunal. The petitioner was working as the Tahsildar during the relevant point of time and she was directed to comply with the proceedings of the Assistant Settlement Officer, by making necessary changes in the revenue accounts.



8.The learned Senior Counsel submitted that the petitioner made a personal field verification of the lands and also made certain suggestions to the Assistant Settlement Officer and informed him that certain portions of the land stands in the name of some third parties and that she is not competent to cancel the patta issued in favour of the third parties and therefore requested the Assistant Settlement Officer to issue revised orders in the light of the remarks made by the petitioner. The Assistant Settlement Officer, Chennai, issued revised orders dated 12.5.2011 and consequently, the petitioner made the necessary changes in the computer entries and issued patta. The petitioner also got relieved from the Taluk from 24.08.2011.

9.The learned Senior Counsel submitted that this change in revenue records made by the petitioner pursuant to the orders passed by the Tribunal and the directions given by the Assistant Settlement Officer, has been made a subject matter of departmental enquiry against the petitioner and according to the learned Senior Counsel, the very charge memo itself is unsustainable. The learned Senior Counsel submitted that the charge memo was issued with a malafide intention after nearly six years after the incident, only to prevent the petitioner from being considered for promotion to the post of District Revenue Officer. The learned Senior Counsel concluded his arguments by submitting that the charge memo issued by the 2nd respondent is liable to be quashed and the petitioner is entitled to be added in the list drawn in the year 2016, for promotion to the post of District Revenue Officer and the petitioner must be given all service benefits and consequent monetary benefits.

10.Per contra, Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader appearing on behalf of the respondents submitted that serious charges have been levelled against the petitioner to the effect that the petitioner has effected changes in the revenue accounts without obtaining the orders of the Commissioner of Land Administration. The learned counsel submitted that even though orders were passed by the Tribunal, the petitioner ought not to have effected the changes without specific orders of the Commissioner of Land Administration and such change in revenue entries has resulted in a serious consequence and has caused prejudice to the interest of the Government. The learned counsel submitted that the petitioner has already made a representation to convert the charges into one under Rule 17(a) of the Tamil Nadu Civil Servants [Discipline and Appeal] rules and the same will be considered in accordance with law and the petitioner must be directed to face the departmental proceedings and come out clean.



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11.This Court has carefully considered the submissions made on either and the materials available on record.

12.The facts of the case has been dealt with elaborately herein above and therefore, this Court will directly come to the issue that is involved in this case. This Court reminds itself with regard to the limited jurisdiction that is vested, to interfere with a charge memo. It has to be seen whether such jurisdiction has to be exercised by this Court by taking into consideration the facts of the present case.

13.It is clearly seen from records that certain lands were taken over by the Government on 18.11.1970 under Act 26 of 1963. The owners of those lands had filed an appeal before the Inam Abolition Tribunal. The Inam Abolition Tribunal by a judgment dated 29.01.2011, after hearing the Assistant Settlement Officer and District Collector came to a conclusion that the appellants have proved their claim and therefore, directions were issued to grant Ryotwari patta in favour of the appellants within one month. The Assistant Settlement Officer had initiated proceedings pursuant to the judgment of the Tribunal and after getting the opinion of the Government Pleader. As per the proceedings dated 28.02.2011, the Assistant Settlement Officer, Chennai directed the Tahsildar to make necessary changes in the revenue accounts. During the relevant point of time, the petitioner was functioning as the Tahsildar. The petitioner made field verification and also gave a report to the Assistant Settlement Officer, to the effect that patta for certain lands stands in the name of some third parties and that she does not have the power to cancel the patta. The Assistant Settlement Officer, Chennai, on receipt of the report given by the petitioner, passed revised orders through his proceedings dated 12.05.2011 and he cancelled the patta standing in the name of third parties and directed the petitioner to make the necessary changes in the revenue accounts. The petitioner thereafter carried out the necessary changes in the revenue accounts and made computer entries and also issued patta. The petitioner got relieved from the relevant Taluk on 24.08.2011.

14.All of a sudden in the year 2017, a charge memo came to be issued against the petitioner only on the ground that the petitioner had effected changes in the revenue accounts without obtaining orders of the Commissioner of Land Administration. For this purpose, the proceedings of the Commissioner of Land Administration dated 14.02.2011 is relied upon.



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15.It is important to consider the scope of the proceedings dated 14.02.2011, issued by the Commissioner of Land Administration. These proceedings states that the Assistant Settlement Officers do not have the power to pass orders under the Abolition Act [Act 26 of 1963] and if any such orders are passed by the Assistant Settlement Officer, the same should not be complied with and therefore no changes must be effected in the revenue records in compliance with the orders of the Assistant Settlement Officer.

16.The above proceedings dated 14.02.2011, will not have any application to the facts of the present case. In the present case, there was a judgment that was passed by a Competent Tribunal, directing the department to issue Ryotwari patta in favour of the appellants therein. This judgment had become final and therefore the authorities are bound to implement the judgment. The Assistant Settlement Officer, North Chennai, after getting proper opinion from the Government Pleader proceeded to implement the judgment. He accordingly directed the petitioner, who was the Tahsildar during the relevant point of time, to effect the changes in the revenue accounts. The petitioner took sufficient care to make a physical inspection of the lands and also gave a report to the Assistant Settlement Officer and thereafter, the changes were made in the revenue accounts and Ryotwari patta was issued. The petitioner did not act suo motu or merely on the orders passed by the Assistant Settlement Officer, Chennai. The petitioner took notice of the fact that a Competent Tribunal had passed the judgment in the appeals and directed the issuance of the Ryotwari patta. Therefore, the petitioner was only implementing the said judgment. In other words, the petitioner was only performing a consequential Act, by implementing the said judgment of the Tribunal. For doing this Act, there is no requirement to get the prior permission of the Commissioner of Land Administration. Curiously in this case, the Assistant Settlement Officer, Chennai, who had initiated the proceedings pursuant to the judgment passed by the Tribunal, was left untouched. Of course, no proceedings could have been initiated against the Assistant Settlement Officer also since he was only implementing the judgment of a Competent Tribunal.

17.This incident had taken place in the year 2011 and the petitioner was relieved from the concerned Taluk on 24.08.2011. Thereafter, the petitioner was also promoted as a Deputy Collector and she was eagerly waiting for her name to be added in the panel for the promotion to the post of District Revenue Officer. The charge memo came to be issued at that point of time after nearly six years after the incident. The charge memo smacks of malafides. It was a clear attempt to prevent the petitioner from being considered for promotion to the post of District Revenue Officer. The timing was perfect and the charge memo sealed the fate of the



petitioner for being considered for promotion, since the charge memo was issued under 17(b) of the Tamil Nadu Civil Servants (Discipline and Appeal) rules.

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18.This Court is thoroughly convinced that there is absolutely no substance in the charge memo and an employee can never be proceeded against for complying with the orders of a Competent Court/Tribunal. It is the duty of the every Officer to comply with the orders of the Court and there is no necessity to take the permission of the higher authority for implementing the orders of the Court. The petitioner who was complying with the directions given by the Assistant Settlement Officer, Chennai pursuant to the judgment passed by the Tribunal, cannot be subjected to a departmental proceedings and therefore, the charge memo issued against the petitioner requires interference of this Court.

19.In the result, the charge memo issued against the petitioner by the 2nd respondent in his proceedings dated 20.03.2017, is hereby quashed. Accordingly, W.P.No.22472 of 2018, is allowed.

20.As a consequence of the above order, there shall be a direction to the respondents to include the name of the petitioner in the list of District Revenue Officers for the year 2016, in accordance with her seniority, with all attendant benefits including promotion and monitory benefits. This exercise shall be completed within a period of eight weeks from the date of receipt of copy of this order. Accordingly, W.P.No.22473 of 2018, is also allowed with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

To

1.The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Secretariat,
Chennai-9.

2.The Principal Secretary and
Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai-5.



3.The District Collector,
Trichy District.

4.The Secretary to Government,
State of Tamil Nadu,
Public (Special-A) Department,
Secretariat,
Chennai-9.

+lcc to Mr.C.Gouthamaraj, Advocate Sr.105677

W.P.No.22472 & 22473 of 2018

rsk[co]
srg 20/12/2019