

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 19.12.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.20074 of 2019
and WMP.Nos.19543 & 19546 of 2019

V.Kumaresan

... Petitioner

-Vs-

1.The Additional Chief Secretary /
Commissioner of Revenue Administration
and Disaster Management & Mitigation Department,
Ezhilagam,
Chepauk,
Chennai 600 005.

2.The District Collector,
Erode District,
Erode.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent relating to the order in proceedings No.7(2)/46512/2017 dated 10.07.2018 and to quash the same to the limited extent of remanding the matter to the 2nd respondent to appoint a new Enquiry Officer to conduct fresh enquiry and to continue the proceedings and to issue consequential directions to the respondents, to include the name of the petitioner in the appropriate place in the approved panel for promotion as Tahsildar in Erode District Revenue Unit for the year 2017 and to forthwith promote him as such with retrospective effect from the date of promotion of his immediate junior with all consequential benefits.

For Petitioner : Mr.M.Ravi
For Respondents : Mr.A.Zakir Hussain
Government Advocate

O R D E R

This writ petition has been filed challenging the order passed by the first respondent dated 10.07.2018, remanding the matter to the second respondent to appoint a new enquiry officer and to conduct a fresh enquiry.

2.The petitioner faced disciplinary proceedings and the second respondent by his proceedings dated 22.11.2017 imposed a punishment of stoppage of increment for two years with cumulative effect. The petitioner filed an appeal before the first respondent and the first respondent after considering the facts and circumstances of the case remanded the matter back to the second respondent for fresh consideration in exercise of his powers under Rule 23 of the Tamil Nadu Civil Services (Disciplinary & Appeal) Rules.

3.Mr.M.Ravi, learned counsel appearing on behalf of the petitioner submitted that the first respondent ought not to have remanded the matter back to the second respondent since the first respondent had considered each and every charge and given a finding that the same has not been proved and thereafter has proceeded to remand the matter to the second respondent to appoint a new enquiry officer to conduct a fresh enquiry.

4.The learned counsel for the petitioner further brought to the notice of this Court that subsequent to the order passed by the first respondent, there was a fresh enquiry that was conducted and the petitioner had participated in the enquiry without prejudice to his rights in this writ petition and ultimately, the proceedings has ended with a punishment of stoppage of increment for three years with cumulative effect by an order dated 09.12.2019. The learned counsel submitted that when the order of remand passed by the first respondent itself was under question, the second respondent ought not to have proceeded further with the enquiry and as a result of the present punishment, the petitioner had been put to prejudice. The learned counsel therefore sought for liberty of this Court to challenge the order passed by the second respondent and also to raise the grounds that have been raised in the present writ petition.

5.Mr.A.Zakir Hussain, learned counsel appearing on behalf of the respondents submitted that nothing survives for adjudication in the present writ petition since pursuant to the order of remand passed by the first respondent, a new enquiry officer was appointed and a fresh enquiry was conducted and based on the enquiry report, the second respondent has come to a conclusion that the charges have been proved and by an order dated 09.12.2019, a punishment of stoppage of increment for three years with cumulative effect has been imposed. The learned counsel further submitted that nothing survives for adjudication in the present writ petition.

6.In view of the subsequent developments that has taken place in this case wherein, the second respondent has already passed an order dated 09.12.2019, pursuant to the remand made to him by the first respondent, this Court cannot go into the merits of this case. Virtually, the relief sought for in this

writ petition has become infructuous. However, taking into consideration the facts and circumstances of the case, liberty is granted to the petitioner to challenge the order passed by the second respondent dated 09.12.2019 and it is open to the petitioner to take all the grounds that were raised in the present writ petition also.

7.This writ petition is disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Additional Chief Secretary /
Commissioner of Revenue Administration
and Disaster Management & Mitigation Department,
Ezhilagam,
Chepauk,
Chennai 600 005.

2.The District Collector,
Erode District,
Erode.

+lcc to Mr.M.Ravi , Advocate SR.No. 106417

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A.SK(30/01/2020)

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