



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.5235 of 2019

T.Thangaraju

... Petitioner

-Vs-

1.Government of Tamil Nadu,
Represented by the Principal Secretary,
Fort St. George, Chennai-9.

2.The Commissioner of Revenue Administration,
O/o. Commissioner of Revenue Administration,
Disaster Management and Mitigation,
Ezhilagam Building, Chapauk, Chennai.

3.The District Collector,
O/o. District Collectorate,
Sivagangai District, Sivagangai.

4.The Revenue Divisional Officer,
O/o. Revenue Divisional Officer,
Sivagangai Division, Sivagangai.

... Respondents

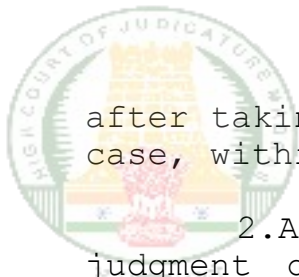
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Na.Ka.No.A2/4858/2013, dated 08.02.2019, on the file of the fourth respondent and quash the same as illegal and consequently, for a direction directing the fourth respondent to pass fresh orders after taking note of the acquittal of the petitioner in the Criminal Case within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.S.Dhayalan,
Government Advocate.

ORDER

The order of the fourth respondent dated 08.02.2019, is sought to be quashed in the Writ Petition and further direction is sought for to direct the fourth respondent to pass fresh orders,



after taking note of the acquittal of the petitioner in the criminal case, within the time stipulated by this Court.

2. According to the petitioner, the petitioner, by the judgment dated 15.10.2009 in C.C.No.04 of 2003, by the learned Special Judge for Vigilance and Anti Corruption / Chief Judicial Magistrate, Sivagangai District, was convicted and sentenced to undergo four years of rigorous imprisonment for the offences under Sections 7, 13(1) and 13(1)(d) of the Prevention of Corruption Act. Subsequently, the petitioner has filed Criminal Appeal in CrI.A.(MD) No.327 of 2009 and this Court, by the judgment dated 12.07.2013, has allowed the said appeal and set aside the conviction of the petitioner. Based on the judgment of this Court dated 12.07.2013, the order of dismissal was set aside and the petitioner was reinstated into service, by the order dated 05.05.2014. The fourth respondent, after reinstatement, continued the charge memo dated 23.04.2004 and after conducting domestic enquiry and considering the explanation submitted by the petitioner, the fourth respondent, by the impugned order dated 08.02.2019, has dismissed the petitioner from service. Challenging the said order, the petitioner has come out with the present Writ Petition.

3. The learned counsel appearing for the petitioner contended that the impugned order passed by the fourth respondent is a non-speaking order and it is only one line order. The fourth respondent has failed to consider the acquittal of the petitioner in criminal proceedings and disciplinary proceedings were also initiated for the very same facts and prayed for setting aside the impugned order. He relied on the judgment of the Hon'ble Apex Court in the case of Roop Singh Negi Vs. Punjab National Bank and others reported in (2009) 2 SCC 570. The relevant paragraph is extracted hereunder:-

"23. Furthermore, the order of the disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the appellant, there was no reason as to why the order of discharge passed by the criminal court on the basis of selfsame evidence should not have been taken into consideration. The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inferences drawn by the enquiry officer apparently were not supported by any



evidence. Suspicion, as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof."

4.The learned Government Advocate appearing for the respondents submitted that disciplinary proceedings and criminal proceedings are independent of each other and the department can initiate departmental proceedings, even after acquittal of the employee in criminal case. The fourth respondent has considered the entire materials on record and passed the impugned order, which is valid and legal and prayed for dismissal of the Writ Petition.

5.Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents and perused the materials available on record carefully.

6.From the impugned order of the fourth respondent, which is filed in the typed set of papers from Page Nos.132 to 149, it is seen that the fourth respondent has extracted the charge memo, explanation submitted by the petitioner, report of the enquiry officer from Page No.132 till Page No.149. In the last paragraph in Page No.149, the fourth respondent has stated that after consideration of the materials, the charges levelled against the petitioner are proved and passed the order of dismissal from service. The fourth respondent has not given any reason for coming into the said conclusion. The impugned order of the fourth respondent is a non-speaking order and passed without any application of mind. The judgment relied on by the learned counsel appearing for the petitioner is squarely applicable to the facts of the present case. For the above reasons, the impugned order of the fourth respondent dated 08.02.2019, is set aside and the matter is remanded back to the fourth respondent for fresh consideration. The fourth respondent is directed to consider the entire materials, including the judgment of this Court dated 12.07.2013 in CrI.A.(MD) No.327 of 2009, acquitting the petitioner, on merits and pass appropriate orders in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

7.With the above direction, this Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Principal Secretary,
Government of Tamil Nadu,
Fort St. George, Chennai-9.

2.The Commissioner of Revenue Administration,
O/o. Commissioner of Revenue Administration,
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3.The District Collector,
O/o. District Collectorate,
Sivagangai District, Sivagangai.

4.The Revenue Divisional Officer,
O/o. Revenue Divisional Officer,
Sivagangai Division, Sivagangai.

+1 CC to M/s.SPL GP (SR-96099[F] dated 05/11/2019)

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-96263[F] dated
06/11/2019)

W.P. (MD) No.5235 of 2019
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JMN(15.11.2019) 4P : 7C