BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **01.08.2019**

CORAM:

THE HONOURABLE MR.JUSTICE **D. KRISHNAKUMAR**

WP(MD)No.8373 of 2019 and
WMP(MD).No.6571 of 2019

S. Senguttuvan ... Petitioner

Vs.

1.The Government of Tamil Nadu,
rep. by its Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat, Chennai -9.

2.The Inspector General of Registration,
No.110, Santhome Highroad,
Chennai – 28. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records relating to the impugned order passed by the 2nd respondent vide his proceedings No.45437 / ஆ1/2013, dated 26.02.2019 (served to the petitioner on 13.03.2019) and quash the same.

For Petitioner : Mr. Ajmal Khan
Senior Counsel
for M/s. Ajmal Associates

For Respondents : Mr. M. Murugan
Government Advocate

ORDER

This Writ Petition has been filed to quash the impugned order passed by the 2nd respondent vide his proceedings No.45437 / ஆ1/2013, dated 26.02.2019.

2. The learned Senior Counsel appearing for the petitioner would submit that the 2nd respondent being the disciplinary authority ought to have passed a reasoned order in conformity with Rule 18(b) of the Tamil Nadu Civil Services (D & A) Rules, 1955. He would further submit that the second respondent should have considered the grounds raised in the further explanation in it's proper perspective. But, without considering the said explanation, the second respondent has passed the impugned dismissal order, dated 26.02.2019, without giving any reasons.

3. In support of his contention, the learned Senior Counsel appearing for the petitioner has relied on the decision of this Court reported in ***2018(2) CWC 580 (R. Bagavathi Chandran Vs. Inspector General of Registration, O/o. the Registration Department),*** wherein this Court has considered the scope and ambit of Rule 18(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955. This Court has also considered the various decisions of the Hon'ble Supreme Court as well as this Court quashed the impugned order. Paragraph Nos.18, 19 and 20 of the said order read as follows:

> *"18. Taking into account the principles mentioned in the aforesaid Judgments, it would clearly indicate that even an Administrative Authority, who is entrusted with the task of passing Order in Disciplinary Proceedings, must have recorded reasons for come to such conclusion to inflict the punishment on the delinquent and if such reasons are not recorded by the said authority, certainly, the Order passed by the authority shall be vitiated. If we applied the aforesaid parameters and principles to the facts and circumstances of the present case especially in the context of Para 6 of the impugned Order, as the said Para alone gives reasons in three lines by the First Respondent to come to the conclusion to inflict the maximum punishment of removal of service against the petitioner, certainly it would disclose that the impugned order Order does not meet the aforesaid parameters or principle laid down in the said Judgments and also it does not meet the mandatory requirement as contemplated under Rule 18(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules.*
>
> *19. Therefore, this Court is of the view that the impugned order, on the ground of non-recording of reasons by the Disciplinary Authority independently by applying the mind of the Disciplinary Authority in the impugned Order of Punishment, is liable to be interfered with. Accordingly, the impugned Order, since it is vitiated for the said reasons alone is liable to be quashed.*
>
> *20. In the result, the impugned Order is quashed and the matter is remitted back to the First Respondent for reconsideration. While making reconsideration, the First Respondent shall apply his mind independently and record his own reasoning in each of the charges framed against the Petitioner as well as the defence given by the petitioner and also the findings given by the*

Enquiry Officer, in that regard and pass Orders thereon. It is made clear that this Court, while quashing the impugned Order, does not express any opinion about the merits of the findings given by the Enquiry Officer. The impugned Order is quashed only on the ground of non-disclosure of reasoning in the impugned Order itself as has been discussed above."

According to the learned Senior Counsel appearing for the petitioner, the aforesaid Judgment is squarely applicable to the facts of the present case.

4. The learned Government Advocate appearing for the respondents did not dispute the said fact.

5. Therefore, following the aforesaid Judgment of this Court, this Writ Petition is allowed and impugned order passed by the second respondent, dated 26.02.2019 is quashed, on the following terms:

(i) The matter is remitted back to the second respondent to consider and pass final orders afresh, after giving an opportunity of hearing to the petitioner.

(ii) The petitioner shall co-operate with the second respondent, at the time of hearing.

(iii) The second respondent shall complete the enquiry as expeditiously as possible, in any event, not later than three months from the date of receipt of a copy of this order.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

trp

To

1. Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat, Chennai -9.

2.The Inspector General of Registration,
No.110, Santhome Highroad,
Chennai - 28.

+1CC TO MR.AJMAL ASSO., Advocate Sr. No.79381
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.79450

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DB(CO)
TR (08.08.2019) 4P 5C