



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.12795 of 2014

and

M.P. (MD)No.1 of 2014

WEB COPY

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... Petitioner

-Vs-

1.The Director of Treasury and Accounts,
Panagal Building, No.1, Jennis Road,
Saidapet, Chennai-15.

2.The Treasury Officer,
District Treasury,
Pudukkottai, Pudukkottai District.

3.The Enquiry Officer Cum Additional Treasury
Officer,
District Treasury Officer,
Thiruvarur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the enquiry report of the third respondent dated 25.07.2014 in RC.No.896/2011/Q3 and quash the same as arbitrary and illegal.

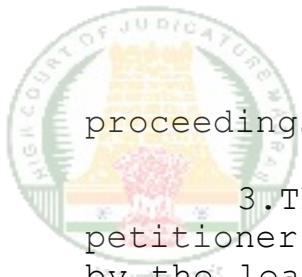
For Petitioner : Mr.K.Baalasundharam

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

ORDER

The enquiry report dated 25.07.2014 is under challenge in the present Writ Petition.

2.The writ petitioner was appointed in the office of Sub-Treasury, Avudaiyarkovil as Junior Assistant in the year 1987. He was promoted to the level of Superintendent in the year 2009. On account of certain allegations, a criminal case was registered against the writ petitioner in Crime No.434 of 2010 under Sections 294(b) and 353 IPC. The second respondent issued a charge memorandum in proceeding dated 30.12.2010, one day prior to the date of retirement of the writ petitioner i.e., on 30.12.2010. However, the writ petitioner was acquitted in the criminal case. In view of the order of acquittal, the writ petitioner states that he should be exonerated from the departmental disciplinary



proceedings.

3.The learned counsel appearing on behalf of the writ petitioner states that the criminal case in Spl.C.C.No.20 of 2011 by the learned Judicial Magistrate No.I, Pudukkottai ended with an order of acquittal and therefore, all further disciplinary proceedings are to be quashed.

4.Based on the disciplinary proceedings and charge memorandum issued by the second respondent dated 30.12.2010, an enquiry was conducted and the enquiry officer also submitted a report on 25.07.2014. The writ petitioner had participated in the process of enquiry and defended his case. If at all any lapses committed by the enquiry officer, the writ petitioner has to submit his objections on the findings of the enquiry report to the discipline authority. Contrarily, no Writ Petition can be entertained against the enquiry report in a routine manner.

5.Mere acquittal in a criminal case would not be a bar for the continuance of the departmental disciplinary proceedings. A high standard proof is required to convict a person in the criminal law. An order of acquittal mostly passed on the benefit of doubt. However, no such strict proof is required to punish an employee under the Discipline and Appeal Rules. Even, preponderance of probabilities are enough to punish an employee under the Discipline and Appeal Rules.

6.This being the distinct and different procedures to be followed both for the criminal case as well as for the departmental disciplinary proceedings, mere acquittal in the criminal case would not be a bar for the discipline authority to continue the departmental disciplinary proceedings under the Discipline and Appeal Rules. Even public servants can be punished for moral turpitude.

7.This being the nature of the departmental disciplinary proceedings, the order of acquittal may be a supportive document for the delinquent official. However, the same will not be a conclusive factor for the purpose of quashing the entire departmental disciplinary proceedings.

8.In the present case, the enquiry officer conducted an enquiry and submitted his final report on 25.07.2014. The enquiry report was communicated to the writ petitioner, which is under challenge in the present Writ Petition.

9.Under these circumstances, the writ petitioner is at liberty to submit his explanation / objection on the findings of the enquiry report, dated 25.07.2014, within a period of four (4)



weeks from the date of receipt of a copy of this order. On receipt of any such explanation / objection from the writ petitioner, the respondents are directed to consider the materials available on record as well as the explanation / objection to be submitted by the writ petitioner, take a decision and pass orders on merits and in accordance with law, as expeditiously as possible. If at all any order has already been passed, then it is left open to the writ petitioner to adjudicate the same in the manner known to law.

10. With these directions, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Director of Treasury and Accounts,
Panagal Building, No.1, Jennis Road,
Saidapet, Chennai-15.

2. The Treasury Officer,
District Treasury,
Pudukkottai, Pudukkottai District.

3. The Enquiry Officer Cum Additional Treasury
Officer,
District Treasury Officer,
Thiruvarur District.

+1 CC to M/s.SPL GP (SR-84211[F] dated 29/08/2019)

W.P. (MD)No.12795 of 2014
28.08.2019

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