



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

WEB COPY

W.P. (MD)No.21366 of 2019

and

W.M.P (MD)No.18012 of 2019

M.Kanagaraj

... Petitioner

Vs.

The Sub Collector,
Office of Sub Collector,
Palani,
Dindigul District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order issued by the respondent in Na.Ka.No.7790/2017/A1, dated 15.02.2019 and quash the same as illegal and without jurisdiction.

For Petitioner	: Mr.S.Manikandan
For Respondent	: Mr.VR.Shanmuganathan, Special Govenment Pleader

ORDER

This writ petition is filed challenging the order of the respondent, dated 15.02.2019, imposing punishment of stoppage of increment for two years with cumulative effect.

2. According to the petitioner, while he was working as Revenue Assistant at Oddanchathiram Taluk Office, the respondent issued a charge memo dated 01.12.2017, under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, containing 5 charges with regard to issue of free house site patta for Natham land in Survey No.128/29 Lekkaiyankottai Village, Ottanchathiram Taluk to one Indirani and Lakshmi without properly verifying the records. The respondent had issued similar charge memo dated 1.12.2017 to the Deputy Tahsildar, Revenue Inspector, petitioner and the Village Administrative Officer. The petitioner has submitted his explanation and not being satisfied with the explanation submitted by him, domestic enquiry was ordered. The petitioner has participated in the enquiry. The enquiry officer submitted his report, dated 12.07.2018, holding that the charges levelled against



the petitioner are not proved. The respondent disagreed with the said report and imposed punishment referred to above.

3. The learned counsel appearing for the petitioner contended that when the Disciplinary Authority disagreed with the report of the enquiry officer, he has to record the reasons for the same and issue notice to the delinquent employee, calling for explanation and after considering the said explanation only, the disciplinary authority can pass orders. In the present case, the respondent without following the said procedure, imposed punishment, by the impugned order. As per the service rules applicable to the petitioner, the District Revenue Officer is the Disciplinary Authority and the respondent has no power to initiate the disciplinary proceedings against the petitioner. In view of the charge memo issued to the Deputy Tahsildar, Revenue Inspector and the Village Assistant Officer for the very same alleged misconduct, the District Collector is the Disciplinary Authority as per the service rules. The Additional Chief Secretary/Commissioner, Revenue Administration has issued Circular No.6/15, dated 30.06.2015. As per the said circular, when more than one Government servant involved in the disciplinary proceedings, higher official is the disciplinary authority for all the Government servants and prayed for allowing the writ petition.

4. The learned Special Government Pleader appearing for the respondents contended that the charge memo issued to the petitioner and others as they have committed misconduct and caused loss to the Government. The petitioner fully participated in the enquiry and at no point of time, he raised objection with regard to jurisdiction of the respondent to initiate the disciplinary proceedings. The Enquiry Officer without properly appreciating the materials on record, erroneously held that the charges levelled against the petitioner were not proved. The respondent after appreciating the materials on record, by giving reasons, held that the petitioner has committed misconduct and imposed punishment. The impugned order is valid and legal and prayed for dismissal of the writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

6. From the materials on record, it is seen that the charges levelled against the petitioner are that without properly verifying the records issued free house site patta for Natham land in Survey No.128/29, Lekkaiyankottai Village, Ottanchathiram Taluk, by issuing sub-division Nos.128/38, 128/39. In the domestic enquiry, the department failed to prove the charges. The enquiry officer, after analysing the charges, explanation submitted by the petitioner and materials on record, held that the charges levelled against the petitioner are not proved. When the respondent received the said report, he agreed with the report of the enquiry officer. After



disagreeing with the report of the enquiry officer, the respondent failed to follow the procedure, without issuing any show-cause notice, passed the impugned order.

7. In view of the failure on the part of the respondent to follow the procedure, the impugned order is liable to be set aside. Further, as per the rules, the disciplinary authority, in respect of the Revenue Assistant, is the District Revenue Officer. The respondent, who is the subordinate officer to District Revenue Officer has no authority or jurisdiction or power to initiate disciplinary proceedings and imposing punishment on the petitioner.

8. For the above reasons, the writ petition is allowed by setting aside the impugned order passed by the respondent dated 15.02.2019. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

The Sub Collector,
Office of Sub Collector,
Palani,
Dindigul District.

+1 CC to SPL GP (SR-93135[F] dated 18/10/2019)

+1 CC to Mr.S.MANIKANDAN, Advocate (SR-17883[I] dated 21/10/2019)

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AM

MK (06.11.2019) 3P 4C