

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 11309 OF 2013

M.Sait

.. Petitioner

- Vs -

1. The Joint Registrar of Co-op.
Societies, Collectorate Campus
Tiruvallur 602 001.

2. The Deputy Registrar of Co-op.
Societies, Collectorate Campus
Tiruvallur 602 001.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.1948/2011 A1, dated 20.3.13 and quash the same and consequently direct the respondents to reinstate the petitioner into service with all attendant benefits and other backwages.

For Petitioner : Mr. Suresh Kumar for
Mr. A.Choudhary

For Respondents: Mr. Bala Ramesh, Spl. GP

ORDER

The petitioner was selected through the Tamil Nadu Public Service Commission and appointed as Junior Inspector in the respondent department and joined the said post on 26.4.89 and is currently functioning as such in the office of the Deputy Registrar of Co-operative Societies, Tiruthani, Tiruvallur District. The petitioner was due to attain the age of superannuation on 30.6.13. Whiles, the petitioner was visited with a charge memo under Rule 17 (b) of the Tamil Nadu Civil Service (D & A) Rules vide proceedings dated 11.4.11. It is the case of the petitioner that pursuant to the issuance of the charge, the petitioner was not provided with reasonable opportunity nor

furnished with the relevant documents to put forth his explanation. The enquiry was proceeded with with affording an opportunity to the petitioner to cross examine the witnesses and the said enquiry was in total violation of the principles of natural justice. Subsequent to the filing of the enquiry report, without furnishing the enquiry report and calling upon the petitioner to show cause why punishment should not be inflicted on him, the petitioner was dismissed from service vide the impugned proceedings dated 20.3.13, aggrieved by which the present petition has been filed.

2. Learned counsel appearing for the petitioner while reiterating the submissions as raised in the grounds in support of his plea, laid emphasis on the impugned order and submitted that the no reason whatsoever has been given in the said order in and by which the punishment was inflicted on the petitioner. He further stressed that a cursory perusal of the order would reveal that the said order has been passed only to victimise the petitioner, as there is not even an iota of reason justifying the said punishment. Therefore, he pleaded for setting aside the impugned order and allowing the present petition.

3. Learned Special Government Pleader appearing for the official respondents, while sought to sustain the impugned order, however, submitted that this Court, in the event of coming to the conclusion that the order passed by the respondents is a non-speaking order, may remand the matter back to the respondents for fresh consideration in accordance with law within a particular time frame.

4. This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

5. The facts in issue are not in dispute. The main ground of attack spearheaded by the learned counsel for the petitioner is that the order passed by the respondents is a non-speaking order. A cursory perusal of the impugned order reveals that the plea as raised by the petitioner deserves to be accepted. The authority, without advertng to the materials and forming an opinion to cause punishment on the petitioner, has, in a routine manner, passed the order, without giving any reasons for coming to the said view. When a major punishment, such as the one inflicted on the petitioner, is sought to be given, the disciplinary authority is required to consider all the materials and pass a just and reasoned order, which is one of the basic requirements in law and only on the basis of the reasons

cited therein, the order could be tested. However, as pointed out above, no reasons whatsoever, has been given by the disciplinary authority while passing the said order. In such circumstances, the order passed by the 1st respondent deserves to be set aside.

6. For the reasons aforesaid, while setting aside the impugned order passed by the 1st respondent, this writ petition is disposed of by remanding the matter back to the 1st respondent for fresh consideration in accordance with law. Accordingly, the matter is remanded back to the 1st respondent who shall consider the materials placed before him afresh and pass orders thereon within a period of six months from the date of receipt of a copy of this order. It is made clear that the interregnum period between the date of his dismissal from service and further order to be passed on the basis of the above remand order, the petitioner shall not be entitled for any monetary benefits. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Joint Registrar of Co-op.
Societies, Collectorate Campus
Tiruvallur 602 001.
2. The Deputy Registrar of Co-op.
Societies, Collectorate Campus
Tiruvallur 602 001.

W.P. NO. 11309 OF 2013

MG (CO)
CB(31/07/2020)

WEB COPY