

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2020

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.11319 of 2015
and
MP.No.1 of 2015

C.Jaganathan

... Petitioner

vs.

1.The Director of Town Panchayats,
Kuralagam,
Chennai - 600 108.

2.The Collector,
Vellore District,
Vellore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari calling for the records relating to the proceedings in Memo No.2659/A/05, dated 19.04.2006 of the second respondent and quash the same.

For Petitioner : Mr.R.Muthukkannu

For Respondents : Mr.S.Thangavel,
Special Government Pleader

O R D E R

This Writ Petition is filed against the proceedings of the second respondent in Memo No.2659/A/05, dated 19.04.2006.

2. The writ petitioner entered into the service as Clerk-cum-Bill Clerk in the Department of Director of Town Panchayats on 01.06.1966. He was subsequently promoted as Junior Assistant on 01.12.1967, thereafter promoted as Executive Officer - Grade II and again promoted as Executive Officer - Grade - I and then as Executive Officer Selection Grade on 31.08.1996. While so, the second respondent served a charge memo on 19.04.2006, under Rule 17 (b) of TNCS (D&A) framing certain charges against the writ petitioner. The petitioner submitted his explanation on 07.03.2007 and he was placed under suspension by the second

respondent vide proceedings dated 30.03.2007 and was not permitted to retire from service on 31.03.2007 ie., date of superannuation. The enquiry officer submitted his report on 25.10.2007, holding that the charges framed against the delinquent were proved. The Directorate of Town Panchayats, Kuralagam, Chennai sought for further explanation from the enquiry officer on 30.05.2014 ie., after a delay of seven years for the above said charges. The department has not taken final decision in the charges framed against the petitioner, he made a representation on 24.11.2014 seeking for monthly pension and also to settle his retirement benefits. The writ petitioner, once again appeared before the first respondent and submitted his written statement on 08.12.2014. But, no order has been passed by the first respondent till now, hence the Writ Petition.

3. The learned counsel appearing for the petitioner submitted that the petitioner has not committed any violation of rules as alleged in the charge memo. Further, he submitted that there is inordinate delay in finalising the enquiry and passing the final order for the above said charges. The learned counsel also relied upon the decisions of the Hon'ble Supreme Court as well as this Court, which are as follows:

(i) P.V.Mahadevan vs. M.D., Tamil Nadu Housing Board reported in 2005 (4) CTC 403

(ii) M.Elangovan vs. Trichy District Central Co-operative Bank Ltd., represented by its General Manager, Tiruchirapalli and another reported in (2006) 3 MLJ 621.

Relying on the above decisions, the learned counsel submitted that the inordinate delay in concluding the proceedings would result in mental agony and suffering of the employee. Therefore, he submitted that the charge memo is liable to be quashed.

4. The learned Special Government Pleader appearing for the respondents submitted that charges have been framed against the petitioner for the irregularities committed by him and an enquiry officer was appointed, in this regard. The enquiry officer held that all the charges framed against the petitioner were proved and the report was submitted to him, seeking further representation. At this stage, the petitioner was mired with another disciplinary proceedings. In the said disciplinary proceedings, he was dismissed from service by the first respondent. Subsequently, the said punishment was modified to compulsory retirement vide G.O.Ms.No. 334 Municipal Administration and Water Supply Department dated 27.06.2013. Therefore, it is contended by the the learned Special Government

Pleader that the delay in finalising the enquiry occurred only due to the said reason. Hence, it is appropriate to proceed with the findings in the present charge memo.

5. On instructions, the learned Special Government Pleader submitted that this Court may direct the respondents to pass orders on the charges framed against the petitioner after giving opportunity to the petitioner by stipulating time limit.

6. According to the learned counsel for the petitioner, the Hon'ble Supreme Court as well as this Court has held that the inordinate delay in concluding the disciplinary proceedings would result in mental agony and sufferings of the concerned employee and that the protracted disciplinary proceedings would be much more than the punishment itself.

7. It is seen that the enquiry proceedings have been kept in abeyance for more than 14 years. The learned Special Government Pleader has submitted that the reason for the delay is due to modification of punishment awarded to the petitioner in another disciplinary proceedings. Therefore, this Court by accepting the reasons for the delay submitted by the learned Special Government Pleader, is inclined to issue directions to the respondents to conclude the proceedings at the earliest.

8. Accordingly, the respondents are directed to consider the explanation submitted by the petitioner on merits and pass final orders as expeditiously as possible by taking note of the inordinate delay in concluding disciplinary proceedings, within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is dismissed.

सत्यमेव जयते

Sd/-

Assistant Registrar (MDU)

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Sub Assistant Registrar

mbi/ak

To

1. The Director of Town Panchayats,
Kuralagam, Chennai - 600 108.

2.The Collector,
Vellore District,
Vellore.

+1cc to Mr.R.Muthukannu, Advocate, S.R.No. 17616
+1cc to the Government Pleader, S.R.No. 18267

W.P.No.11319 of 2015
and
MP.No.1 of 2015

VSN II (CO)
GN (17/08/2020)



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