



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :27.01.2020

CORAM:

THE HON'BLE MR. JUSTICE M.GOVINDARAJ

W.P.No.20848 of 2005

WEB COPY

V.Patchemmalle

... Petitioner

Vs.

1. The Director of Civil Supplies and
Consumer Affairs,
Pondicherry.
2. The Special Officer,
Pondicherry Municipality Pondicherry. ... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the impugned order of the First respondent in Proceedings No.151/DCS & CA/04 dated 02/05-04-2004, confirming the order of the second respondent in Proceedings No.PM/Estt/1-90/A2/96 dated 26.2.2003 and quash the same.

For Petitioner : Mr. P.Manojkumar

For respondents : M/s.V.Usha, Addl.Govt. Pleader
Pondicherry for respondent.

ORDER

The petitioner while functioning as a Junior Assistant at Pondicherry Municipality, faced with two charges of misconduct under Rule 10 of the Pondicherry Municipality Services (Classification, Control and Appeal) Rules, 1982. The Disciplinary Authority having found that the first charge was not proved and the second charge proved, imposed the punishment of stoppage of increment for one year without cumulative effect and her suspension period of 79 days is also treated as punishment period.

2. Upon appeal, the Appellate Authority had held both the charges proved. Challenging the order passed by the appellate authority, the petitioner is before this Court.

3. According to the learned Addl. Govt. Pleader, Pondicherry, the post of regular Appellate Authority was vacant at that point of time, hence an ad-hoc appellate authority was appointed by vide Order No.58230/LAS/2003, dated 25.8.2003 of



Local Administration, Secreteriat, Puducherry. The Appellate Authority did not find any reason to interfere with the punishment awarded to the petitioner and rejected the appeal confirming the punishment imposed on the petitioner.

WEB COPY

4. A reading of the impugned order would disclose that the order has been passed by the Appellate Authority without any discussion and without any reasoning, simply held that the punishment was confirmed. Such a cryptic order is opposed to principles of natural justice. The order passed by the appellate authority, as contended by the petitioner, is one without application of mind and a non speaking order. Therefore, I am inclined to set aside the order passed by the ad hoc appellate authority dated 2.4.2004 in his proceedings No.151/DCS&CA/04 and the matter is remanded back to the appellate authority for re-consideration.

5. It is represented before this Court that the appellate authority is Director of Local Administration. Therefore, a direction has to be issued to the Director of Local Administration to dispose of the appeal, on merits, setting out reasons for arriving at such conclusion taking into consideration the appeal grounds in respect of the second charge. The petitioner is also permitted to submit a fresh grounds of appeal.

6. Accordingly, on an appeal being filed by the petitioner, the aforementioned Appellate Authority shall consider all the materials and grounds raised by the petitioner against the order of original Authority, and pass a reasoned order on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of the order.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

msr
To

1. The Director of Civil Supplies and Consumer Affairs,
Pondicherry.



2. The Special Officer,
Pondicherry Municipality Pondicherry.

3. The Director of Local Administration,
Pondicherry.

WEB COPY

+1 cc to Mr.P.Rajendran Advocate sr5605

+1 cc to the Government Pleader Pondicherry sr5765

W.P.No.20848 of 2005

nml (co)
aa23/10/2020