

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2020

CORAM:

THE HON'BLE MR. JUSTICE R.MAHADEVAN

Writ Petition No.8194 of 2020  
& WMP No.9766 of 2020

Jawahar Santhakumar  
S/o.Xavier Francis

... Petitioner

Vs.

1. The State of Tamil Nadu,  
Rep. by the Chief Secretary to Government,  
Public (Special-A) Department,  
Secretariat, Chennai-9
2. The Tribunal for Disciplinary Proceedings,  
Kuralagam, Chennai-600 108.
3. Tamil Nadu Public Service Commission,  
Rep. by the Secretary, Greams Road  
Chennai. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified mandamus calling for the entire records pertaining to Ref. Letter No.6010/A6/1998-37, dated 24.12.2019 passed by the 1<sup>st</sup> respondent and hand served on the petitioner on 10.03.2020 at 11.a.m and quash as illegal and ultra virus and direct the respondents to reinstate the petitioner with all monetary and service benefits and for other reliefs.

For Petitioner : Mr. K.Mohanamurali

For Respondents : Mr. D.Raja, AGP, for R-1 & R-2,  
Mrs. Niraimathi, for R-3

O R D E R

By consent of both the parties, the writ petition is taken up for final disposal at the admission stage itself, through Video Conferencing on account of COVID-19.

2.It is the case of the petitioner that while he was employed as District Revenue Officer, Karur, he was placed under suspension on 26.12.2008 and ultimately dismissed from service on 26.11.2011, for the charge of possession of disproportionate assets to the tune of Rs.16,35,219/-. The

said order was challenged by the petitioner by filing WP.No.28724 of 2011. During the pendency of the same, a vigilance case was registered against him, which ended in conviction. Aggrieved against the said judgment of conviction, he preferred an appeal in Crl.A(MD)No.66 of 2017 and obtained an order of suspension, pending disposal of the said appeal.

3.It is the further case of the petitioner that he was due to retire on 30.11.2011. He filed WP.No.31476 of 2017 seeking a direction to the respondents to close his provident fund account and effect payment. In the mean while, an order dated 22.01.2018 came to be passed by the respondents stating that till the disposal of WP.No.28724 of 2011, no amount shall be disbursed to the petitioner, against which, he preferred yet another writ petition in WP.No.2499 of 2018 and the same is pending. While so, vide order dated 16.04.2019, this Court allowed the writ petition viz., WP.No.28724 of 2011 by setting aside the order dated 26.11.2011 passed by the first respondent and remanded the matter for fresh consideration, after issuing show cause notice calling upon the petitioner to give explanation in regard to the findings of the second respondent. However, the first respondent vide communication dated 24.12.2019, called upon the petitioner to file his objection with respect to the penalty proposed to be imposed on him under Rule 8 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, (hereinafter shortly referred to as 'the Rules') citing the judgment of conviction passed in the Vigilance case. Challenging the same, the petitioner has filed this writ petition.

4.Heard both sides and perused the documents placed in the form of typed set of papers.

5.It is not in dispute that by the impugned communication dated 24.12.2019 issued by the first respondent, the Government proposed to impose the penalty as specified in Rule 8 of the Rules on the basis of the fact that the petitioner was convicted in Criminal Charge No.1 of 2014 on 09.02.2017 by the learned Chief Judicial Magistrate-cum-Special Judge for the Prevention of Corruption Act, 1988 and was sentenced to undergo simple imprisonment for one year and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for a further period of one month for the offence under Section 7 of the Prevention of Corruption Act; and to undergo simple imprisonment for two years and to pay a fine of Rs.2,000/- in default to undergo simple imprisonment for a further period of one month for the offence under section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988; and therefore, the petitioner was given an opportunity of making representation under Rule 17(c)(i)(1) of the Rules, on the penalty as proposed by the Government.

6.However, pursuant to the order dated 16.04.2019 passed by this Court in WP.No.28724 of 2011, the first respondent

sent another communication dated 24.12.2019, calling upon the petitioner to submit his explanation on the findings of the Commissioner for Disciplinary Proceedings dated 07.07.2008 and the deviation pointed out on the findings of the Commissioner for Disciplinary Proceedings dated 13.11.2008, to the Government, within a period of 15 days from the date of receipt of the said communication.

7.It is reported by the learned counsel for the petitioner that the petitioner did not submit his explanation to the Government, in response to the aforesaid communications dated 24.12.2019, but he sent two letters dated 11.03.2020 to the first respondent, seeking certain clarifications and there was no reply to the same. Apprehending adverse proceedings, he rushed to this Court with the present writ petition, to quash the communication, proposing to impose penalty. However, the learned counsel submitted that it would suffice, if time is granted to the petitioner for filing his objection, which shall be considered by the respondents within a time frame to be stipulated by this Court, for which, the learned Additional Government Pleader taking notice for the respondents 1 and 2 has no serious objection.

8.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court, without going into the merits of the case, directs the petitioner to submit his explanation in detail, meeting out all the issues to the first respondent, within a period of two weeks from the date of uploading the copy of this order in the website. On such submission, the first respondent shall consider the same and pass final order, on merits and in accordance with law and also in the light of the order dated 16.04.2019 passed by this Court in WP.No.28724 of 2011, within a period of four weeks thereafter.

9.This writ petition stands disposed of in the above terms. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

srk

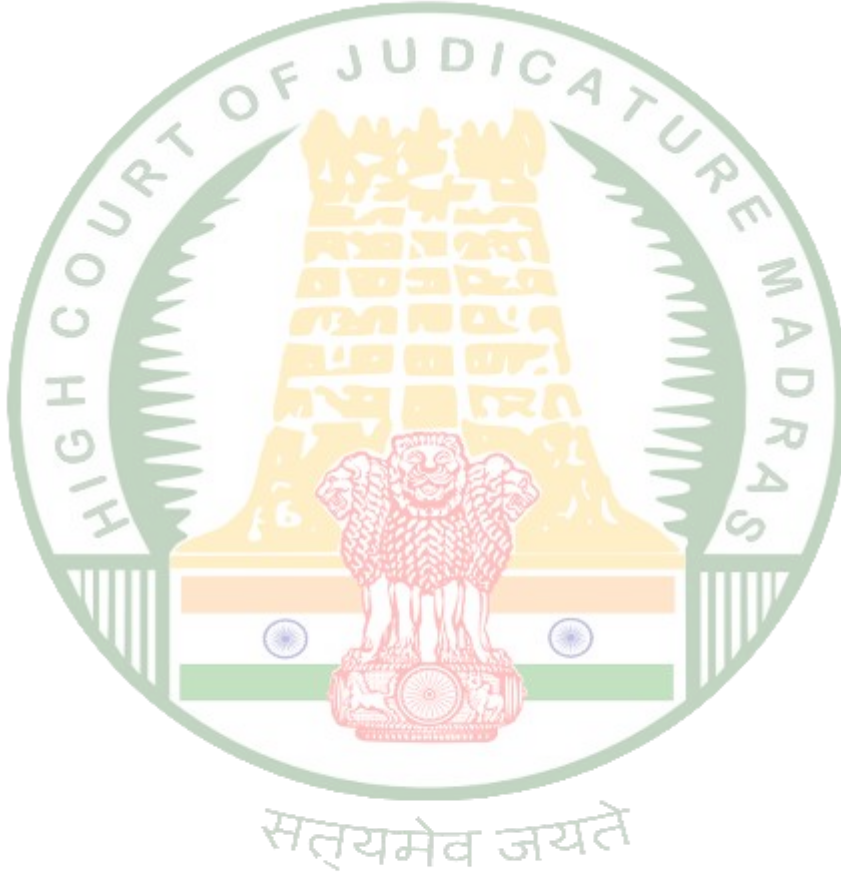
To

1. The Chief Secretary to Government, State of Tamil Nadu,  
Public(Special-A) Department, Secretariat, Chennai-9

2. The Tribunal for Disciplinary Proceedings,  
Kuralagam, Chennai-600 108.
3. The Secretary, Tamil Nadu Public Service Commission,  
Greams Road, Chennai.

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LN (CO)  
GMY (29/09/2020)



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