

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.11.2020

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.22977 of 2014
and
M.P.Nos.1 of 2014 & 1 of 2015

K.Gopalakrishnan

.. Petitioner

vs.

1.The Managing Director,
Tamil Nadu Corporation for
Development of Women Ltd.,
Annai Theresa mahalir Valagam,
1st Floor,
Valluvarkottam High Road,
Nungambakkam,
Chennai 600 034.

2.The Project Officer,
Mahalir Thittam
Project Implementation Unit,
Namakkal

3.The District Collector cum Chairman,
District supply and Marketing Society,
Namakkal.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent relating to the proceeding NO.2571/A2/2010 dated 03.12.2013, ordering the petitioner to be relieved from the post of Manager, District Supply and Marketing Society, Namakkal, and to quash the same and direct the respondents to reinstate the petitioner in the post of Manager, District Supply and Marketing Society, Namakkal, Together with back wages and attendant benefits.

For Petitioner : Mr.S.Baskaran

For Respondent(s): Mrs. P.Rajalakshmi, AGP for R1.

: Mr.S.Thangavel, Spl. G.P. for RR 2 & 3

ORDER

The petition has been filed by the petitioner to call for the records of the 1st respondent relating to the proceeding NO.2571/A2/2010 dated 03.12.2013, ordering the petitioner to be relieved from the post of Manager, District Supply and Marketing Society, Namakkal, and to quash the same and direct the respondents to reinstate the petitioner in the post of Manager, District Supply and Marketing Society, Namakkal, Together with back wages and attendant benefits.

2. The case of the petitioner is that he was appointed as Secretary at the District Supply and Marketing Society on 13.10.2007 by the 3rd respondent and joined duty on 17.10.2007. While in service, he was issued with a charge memo on the allegation of misappropriation of Rs.1.00 lakh which was paid to the petitioner as well as one Senthilkurmar on 28.10.2010 to exhibit and sell the products of Self Help Groups in the exhibition conducted during the Car festival in Arulmighu Kandasamy Tirukoil in Malla Samudram Taluk and in the Thaipooosa festival in Alrulmighu Balamurgan Temple in Kapilarmalai Taluk. It is the case of the petitioner that out of the said sum, the project officer paid a sum of Rs.75,000/- to the petitioner. After the festivals were over, the petitioner submitted vouchers for a sum of Rs.76,345/-, but the project officer demanded voucher for Rs.1,00,000/-, which the petitioner refused. While the petitioner and the Superintendent of Mahalir Thitam gave a complaint to the 3rd respondent, the Project Officer also gave a compliant as against the petitioner stating that he has not properly accounted the vouchers. Based on the complaints, the 3rd respondent forwarded the matter to the 1st respondent who conducted an enquiry by issuing showcase notice. After conduct of the enquiry, the enquiry Officer submitted his report before and the disciplinary authority, without appreciating all the materials placed before him, removes the petitioner from service, aggrieved by which, the present petition is filed.

3. Learned counsel appearing for the petitioner submitted that though the first respondent held that it was the project officer who was responsible and directed recovery of a sum of Rs.23,655/- from his salary, however, without any rhyme or reason, the petitioner was relieved from his service by the order dated 03.12.2013, though no materials have been placed to prove any delinquency on the part of the petitioner. The 1st respondent without discussing the case of the petitioner on merits dismissed the petitioner from service through a non-speaking order, which requires interference.

4. On the above contention, this Court heard the submissions made by the learned Special Government Pleader and the learned Additional Government Pleader, who fairly conceded that the order passed by the first respondent dismissing the petitioner are bereft of any details and no reason have been recorded in the said impugned order. Hence they pray that this Court may remand the matter back to the 1st respondent for passing a speaking order on merits, within a reasonable time as fixed by this Court.

5. It is trite that the disciplinary authority should act well within his bounds to appreciate the evidence and thereafter must pass orders. The only issue that needs to be looked into by this Court is whether the disciplinary authority has applied his mind to the materials before inflicting the punishment on the petitioner. In the case on hand, a careful perusal of records reveal that subsequent to the enquiry, the disciplinary authority, has not adverted to the materials in proper perspective and imposed the punishment on the petitioner. On this short ground, the impugned order passed by the disciplinary authority deserves to be set aside.

6. Accordingly, the impugned order passed by the 1st respondent relating to the proceeding NO.2571/A2/2010 dated 03.12.2013, is hereby quashed. Accordingly, without monetary benefit, the matter is remanded back to the first respondent and the first respondent is directed to consider the matter afresh and pass reasoned order in accordance with law, after affording opportunity to the petitioner, within a period of 3 months from the date of receipt of copy of this order.

7. With the above direction, this writ petition is allowed with the above direction. There shall be no order as to costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

jrs

To

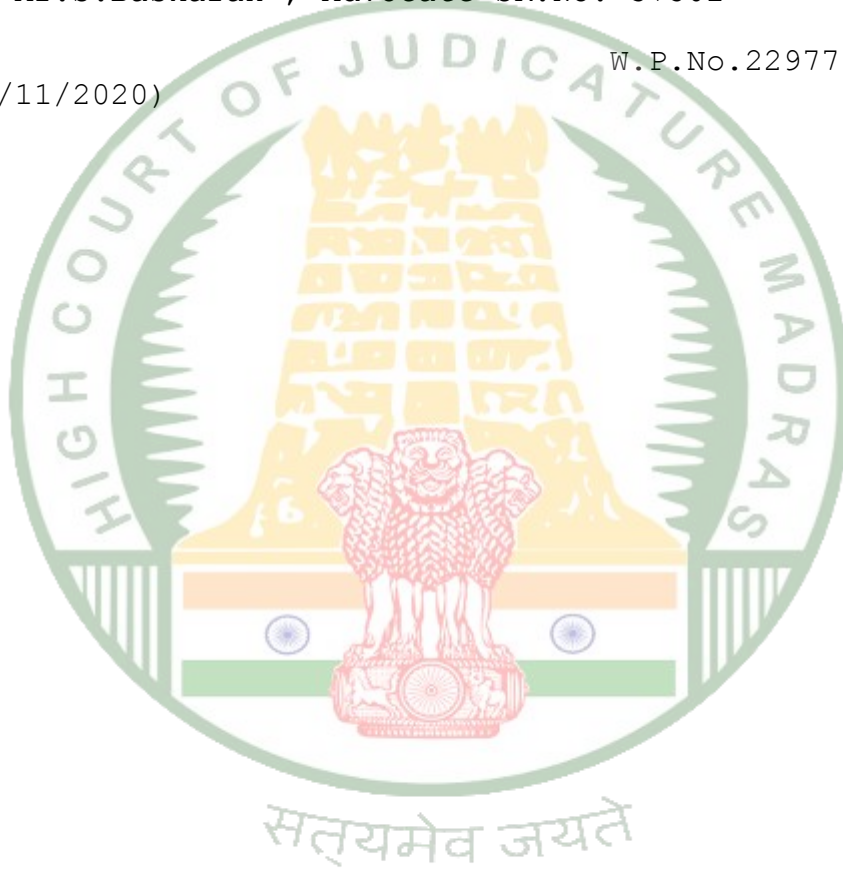
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+1cc to Mr.S.Baskaran , Advocate SR.No. 37502

A.SK(24/11/2020)

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