



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 22.07.2020
DELIVERED ON : 03.08.2020

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P. (MD)No.16327 of 2012
and
M.P. (MD) .No.1 of 2012

Sakthivel ... Petitioner

-vs-

1.The District Collector,
Karur District,
Karur.

2.The District Revenue Officer,
Karur District,
Karur.

3.The Revenue Divisional Officer,
Karur District,
Karur.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings made in Na.Ka.A5/21407/2009, dated 06.07.2012 on the file of the 2nd respondent and quash the same and to direct the first respondent to pay pension, terminal benefits and other benefits to the petitioner.

For Petitioner : Mr.V.Kannan

For Respondents : Mr.D.Muruganandam
Additional Government Pleader

ORDER

The writ petition has been filed by the petitioner for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings made in Na.Ka.A5/21407/2009, dated 06.07.2012 on the file of the 2nd respondent and quash the same and to direct the first respondent to pay pension, terminal benefits and other benefits to the petitioner.



2. The writ petitioner, who was working as Village Administrative Officer in Karur Taluk was suspended for allegedly involving in using of bogus seals with Government Emblem by the third respondent. A case was filed in Karur Police Station in Crime No.215/03. The Judicial Magistrate No.I, Karur delivered judgment in C.C.No.51/06 dated 23.07.2008. Hence, the third respondent passed orders to dismiss the petition in RC.847/2003/A3 dated 10.09.2008. Then, the petitioner preferred an appeal petition to the second respondent on 31.10.2009 and filed a writ petition in W.P.(MD).No.419 of 2011 before this Court, requesting to pass orders on the appeal petition, dated 31.10.2009. By order dated 19.01.2011, this Court had directed the District Revenue Officer/the second respondent to pass orders on merits in accordance with law. Hence, the second respondent had passed orders in the proceedings in RC.No.A5/21407/2009, dated 06.07.2012 and rejected the petitioner's prayer.

3. After conclusion of the enquiry, the third respondent/RDO, relying upon the conviction passed by the Judicial Magistrate Court, has ordered for dismissal from service against which he preferred an appeal to the second respondent and since no order has been passed, he preferred the above said writ petition wherein the second respondent was directed to dispose of the appeal and the same was complied with, whereby the order of dismissal passed by the third respondent is confirmed by the second respondent and hence this writ petition.

4. The learned counsel for the petitioner submitted that the petitioner was arrayed as second accused and though the Judicial Magistrate Court has laid conviction, however in the appeal, the conviction has been set aside and hence he relied upon G.O.Ms.No.228 of Personnel and Administrative Reforms dated 13.04.1989.

5. The learned Additional Government Pleader based upon the counter filed would contend that in the criminal Court, finding is not binding in the departmental proceedings and hence finding rendered by the third respondent, as confirmed by the second respondent does not warrant any interference.

6. After hearing both the sides and also perusing the judgment passed by the learned Judicial Magistrate, Karur in C.C.No.61/06 and also Criminal Appeal judgment passed by the Sessions Court, Karur in Crl.A.No.37/2008, dated 19.06.2009, since the prosecution witnesses have turned hostile, the learned Sessions Judge, Karur has allowed the appeal filed by the accused and set aside the conviction and sentence and I find that the substance of the Government Order, namely, G.O.Ms.No.228, Personnel and Administrative Reforms(Personnel-I), Department,



dated 13.04.1989 are runs as follows:

"9. Where a Government Servant is

(a) Placed under suspension in view of the fact that a complaint against him of any criminal offence is under investigation or trial; or

(b) Dismissed or removed from service or compulsory retired on the ground of conduct which has led to his conviction on a criminal charge and the Government servant is subsequently reinstated in service on his acquittal by the Court either on merits or on the ground that the charge has not been proved against him or by giving benefit of doubt or on any other technical ground, he must be regarded as having been prevented from discharging duties and the period of his absence including the period of suspension shall be treated as duty for all purpose and he shall be paid full pay and allowances which he would have been entitled to, had he not been under suspension or dismissed or removed or compulsory retired from service."

The above Government Order is applicable to the case of the petitioner herein.

7. The learned Additional Government Pleader would contend that domestic enquiry has been properly conducted and a finding has been arrived as. This Court has given its anxious consideration to the said submission, however on perusal of the impugned order passed by the third respondent, I find, the order of dismissal, dated 10.09.2008, it is simply followed the order of conviction passed by the Judicial Magistrate Court. No independent witnesses are examined and no other document has been recorded and further more, even at the time of enquiry, a delinquent officer made a submission that his appeal in C.A.No.37/2008 is pending with consideration before the Sessions Court, Karur and hence sought for the relief of the departmental proceedings and the same was negatived.

8. After perusal, the order dated 10.09.2012 passed by the second respondent, I do not find that there is no any independent enquiry, except following the conviction order passed by the learned Judicial Magistrate, Karur. It remains to be stated that the said conviction order has been set aside in the appeal by the Sessions Judge and no further appeal has been preferred by the Government. Consequently, the order of acquittal passed by the Sessions Judge has become final. In the Departmental enquiry, in the absence of any independent reasoning given in the order of dismissal, except placing the reliance upon the Judicial Magistrate Court order, which was set aside in the appeal was considered. Hence, I find that the order of dismissal passed by the third respondent, dated 10.09.2008 is liable to be set aside and hence the order of dismissal passed by the second respondent as confirmed by the third respondent is hereby set aside and



following G.O.Ms.228, Personnel and Administrative Reforms (Personnel-I), Department, dated 13.04.1989, the petitioner is entitled for service benefits and monetary benefits since the petitioner is already attained superannuation on 31.10.2008.

9. In fine, the impugned order passed by the second respondent is hereby set aside and the first respondent is directed to pay pension and terminal benefits as per the G.O.Ms.No.228 Personnel and Administrative Reforms(Personnel-I), Department, dated 13.04.1989.

10. With these observation, this writ petition is allowed. No Costs. Consequently, connected M.P.(MD).No.1 of 2012 is closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

PJL

To

1.The District Collector,
Karur District,
Karur.

2.The District Revenue Officer,
Karur District,
Karur.

3.The Revenue Divisional Officer,
Karur District,
Karur.

**ORDER MADE IN
W.P. (MD)No.16327 of 2012
03.08.2020**

SE(CO)

TR(12.08.2020) 4P 4C