



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2020

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P (MD)No.4049 of 2012 and

MP (MD).No.2 of 2012

WEB COPY

M. Palanichamy (died)

P. Alagu

(petitioner is substituted for the
deceased sole petitioner

vide Court order dated 14.06.2019

in WMP(MD).No.6625 of 2019)

... Petitioner

..vs.

1.The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
Chief Secretariat,
Chennai - 600 009.

2.The Principal Secretary / Commissioner of Revenue,
Administration,
Ezhilgam,
Chepauk,
Chennai - 600 005.

... Respondents

PRAYER:- This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 1st respondent G.O.(D).No. 27, dated 25.01.2012 Revenue (Establishment 3 (1) Department, read with proceeding bearing Na.Ka.No.Establishment 3(4)/ 76335/2008, dated 29.06.2009 issued by the 2nd respondent and quash the same and consequently, direct the respondent to disburse petitioner's pensionary and all other retirement benefits.

For Petitioner : Mr. R. Narayanan

For Respondents : Mr. C. Ramar

Additional Government Pleader

ORDER

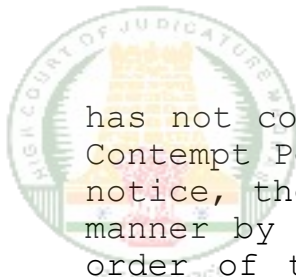
This Writ Petition has been filed to quash the impugned order of the 1st respondent, dated 25.01.2012 passed in G.O.(D).No. 27, Revenue (Establishment 3(1) Department, read with proceeding bearing Na.Ka.No. Establishment 3(4)/ 76335 / 2008, dated 29.06.2009



issued by the 2nd respondent and direct the respondent to disburse petitioner's pensionary and all other retirement benefits.

2. The case of the petitioner is that he joined in Revenue Department in the year 1982 as Junior Assistant. He was promoted as Deputy Tahsildar in the year 2001 and while he was working as a Zonal Deputy Tahsildar, Sivagangai Taluk, Sivagangai District, he was taking care of three zones viz., Kalayarkoil, Sivagangai and Okkur. The said Okkur Zone was managed by Deputy Tahsildar Muthuvijaya, who is the authority concerned. The said lady officer did not come to office regularly due to some physical ailment. Subsequently, she had obtained voluntary retirement. Thereafter, one Ms. Vasantha, was Tahsildar during the relevant period. Since Muthuvijaya and Vasantha were colleagues right from the Junior Assistant days, the Tahsildar made a formal request to him to manage all the works of Muthuvijaya. It is submitted that there was an unwritten understanding in the revenue officials in this regard.

3. It is the further case of the petitioner that one Ravi had given an application for effecting mutation of patta in his name to the Thasildar concerned. The said jurisdiction falls under Okkur Zone. Since Thasildar Muthuvijaya was on camp duty and was not available in the office, the petitioner had to necessarily look into the matter. The said Ravi expressed some emergency because he has availed a loan. Since there was no objection, he had issued proceedings for effecting mutation of patta on 23.11.2004. Till date, the mutation has not been effected, because there was no objection for the same. Unfortunately, the said Ravi and the Village Administrative Officer in the locality by name Alagu had developed enmity. The said Ravi had contested panchayat election and he had lost to a candidate supported by Alagu and he lodged a vigilance complaint on 13.05.2005 and a successive trap was laid and he was arrested. However, they could not get successive prosecution because the mutation had taken place on 23.11.2004, as the trap had taken place only on 15.05.2005. Whereas, the matter was referred for disciplinary proceedings. Since the petitioner had issued mutation order, he was named as accused No.2. The charge against the petitioner was that even though he was a Deputy Tahsildar for Kalayarkoil Zone, he had issued the proceedings in respect of a matter falling in Okkur Zone. The petitioner had explained the circumstances, under which he had issued the said proceedings. But the issued report holding that the charges against the petitioner stood proved. The second respondent, who is the disciplinary authority, without considering his further explanation, had dismissed him from service on 26.09.2009. The said order was challenged by the petitioner by way of an appeal before the first respondent which was pending for the past two years without being disposed of. Therefore, he had filed a Writ Petition in W.P.No. 4013 of 2011 and this Court, by order dated 06.04.2011, directed the first respondent to consider the said appeal and pass appropriate order within a period two months. Even then, the first respondent

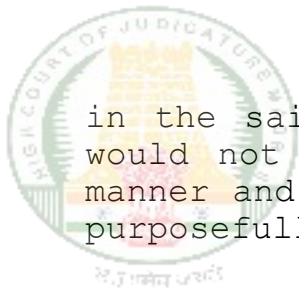


has not considered the appeal and hence, the petitioner has filed a Contempt Petition No. 524 of 2011 and only after filing the contempt notice, the first respondent has disposed of the matter in a hurried manner by impugned G.O.(D) NO. 27, dated 25.01.2012, confirming the order of the dismissal. In fact, during the so called personal enquiry, the first respondent did not ask anything about the merits of the appeal. He scolded the petitioner for having filed the Contempt Petition and the appeal was dismissed by him. In such circumstances, the petitioner has filed the present Writ Petition with the above said prayer.

4. No counter has been filed by the first respondents.

5. On going through the materials available on record it is seen that the petitioner was working as a Deputy Thasildar, in Sivagangai Taluk, Sivagangai District and Sivagangai Taluk had three Zones viz., Kalayarkoil, Sivagangai and Okkur. He has passed an order making mutation in the patta in favour of one Ravi, when the said village Thamarakki falls under Okkur Zone. As per the order of the petitioner, dated 23.11.2004, patta has been changed in the name of Ravi. If any mutation has to be done, it should be done by the Okkur Deputy Thasildar. But, the petitioner himself has taken the same in to consideration without affording an opportunity to others by following procedure and passed an order, which is against the powers granted to him. Further, he has also acted upon in violation of the principles of the Tamil Nadu Ministerial Service Conduct Rules 1973. It is also found that as per the Departmental Witness one G. Ravichandran, who was the Revenue Inspector, he had preferred the file and sent the same to the said Muthuvijaya, who was the Deputy Thasildar, Okkur Zone for consideration. But the same was approved and signed by the petitioner herein, who was the Zonal Deputy Thasildar, Kalaiyarkoil and nobody knows as to how the same was approved and signed by the petitioner herein. He had deposed that he kept the file on table of the said Muthuvijaya, as the said Muthuvijaya was on chair. It is made clear that the said Muthuvijaya was available on 02.12.2004 and she was not on camp duty or any other duty as per submission made by the interneers therein. The attendance Register proved that the said Muthuvijaya was very much available at the time of considering the said application for mutation.

6. From the above facts, it is clear that when the concerned Thasildar was very much available on the said seat, the petitioner acted in the above manner and misused and exceeded the power granted to him. Further, the petitioner's submission that no complaint has been given by anybody could not be accepted as it is seen that the said petitioner himself stated that inadvertently, he has signed in the same. It is the duty of the petitioner to consider the papers placed before him with care and negligent and then only come to a conclusion as to whether the applicant is entitled to change of name in patta and his name can be included



in the said patta. The above act committed by the petitioner, would not show that the petitioner has proceeded in a negligent manner and mistakenly acted upon so. But, it is clear that he has purposefully done the same.

7. It is further submission of the petitioner in the affidavit that the said Muthuvijaya is falling ill often due to which she could not attend the office regularly and hence, one Vasantha made a formal request to him to help and accordingly, he acted so. The said submission of the petitioner cannot be sustained. It is the duty of the officer concerned to render his duty cast upon within his jurisdiction. The submission that on oral instruction, he has gone through the papers, is nothing but illegal.

8. The petitioner's further case that due to urgency expressed by applicant / Ravi that he wanted to avail loan, he has considered and issued the proceedings on 23.11.2004, also cannot be accepted for the simple reason that oral instruction would not empower him to act without jurisdiction. It is seen that the petitioner's act was proved beyond doubt by the enquiry officer and the charges framed against him had been considered properly by the authorities concerned and he was rightly removed from the service on 26.09.2009.

9. The last contention of the petitioner is that he had filed a Writ Petition in W.P.No. 4013 of 2011 and the same has been disposed of by this Court on 06.04.2011 with a direction to the first respondent to dispose of the appeal. Since the order of this Court has not been complied with by the first respondent, he filed the contempt Petition and thereafter, the said order has been passed in the hurried manner without considering all the facts and so called personnel enquiry could not be accepted without valid proof. No materials produced before this Court to prove such contention of the petitioner. Hence, this Court do not find any reason to interfere with the impugned order passed by the respondents.

10. In view of the above, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Crl Side)

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/ /2020

Sub Assistant Registrar(CS)

trp

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
Chief Secretariat,
Chennai - 600 009.

2.The Principal Secretary / Commissioner of Revenue,
Administration,
Ezhilgam,
Chepauk,
Chennai - 600 005.

+1 CC to M/s.R.NARAYANAN, Advocate (SR-12579[F] dated 19/03/2020)

+1 CC to M/s.SPL GP (SR-12264[F] dated 18/03/2020)

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MP (MD) .No.2 of 2012
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