



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 31.07.2020

DELIVERED ON : 05.08.2020

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CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P. (MD)No.15359 of 2014

and

M.P. (MD) .No.1 of 2014

G.Vimala Bai

... Petitioner

-vs-

1.The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
St.Fort George,
Chennai-9.

2.The Commissioner,
Survey and Settlement Department,
Survey House, Chepauk,
Chennai.

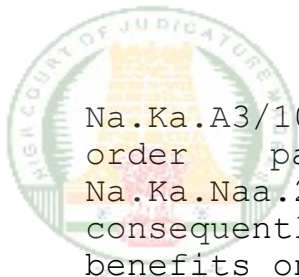
3.The Additional Director,
Survey Department, Chepauk,
Chennai.

4.The Regional Deputy Department,
Survey Department,
Madurai-20.

5.The Assistant Director,
Survey Department,
Nagercoil,
Kanyakumari District.

... 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 G.O.(2D).No.186 dated 25.02.2014 passed by the first respondent confirming the order dated 30.09.2011 bearing Na.Ka.Na.2/17125/2010 (Land Survey) passed by the second respondent herein confirming the order dated 17.02.2010 bearing Na.Ka.Lal/19619/2008 (Land Survey) passed by the third respondent confirming the order dated 25.02.2008 bearing



Na.Ka.A3/10864/07 passed by the fourth respondent modifying the order passed by the fifth respondent herein vide Na.Ka.Naa.2/5285/06, dated 31.08.3007 and quash the same and consequently direct the respondent to confer all the consequential benefits on the petitioner.

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For Petitioner : Mr.T.Antony Aur Raj

For Respondents : Mr.Gunaseelan Muthiah
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 G.O.(2D).No.186 dated 25.02.2014 passed by the first respondent confirming the order dated 30.09.2011 bearing Na.Ka.Na.2/17125/2010 (Land Survey) passed by the second respondent herein confirming the order dated 17.02.2010 bearing Na.Ka.La1/19619/2008 (Land Survey) passed by the third respondent confirming the order dated 25.02.2008 bearing Na.Ka.A3/10864/07 passed by the fourth respondent modifying the order passed by the fifth respondent herein vide Na.Ka.Naa.2/5285/06, dated 31.08.3007 and quash the same and consequently direct the respondent to confer all the consequential benefits on the petitioner.

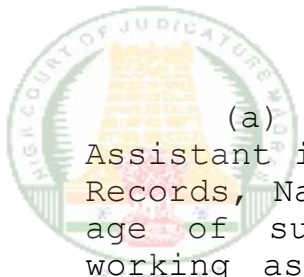
2. The learned counsel for the petitioner would contend that the alleged delinquency against the petitioner is that she has made a wrong note whereby pensionary benefits, namely, arrears of pay commission and arrears of surrender leave in respect of the deceased employee was given to adopted son instead of mother of the deceased, who was the nominee in the service records. Secondly, the petitioner has relied upon the decision of this Court in W.P.(MD).No.2223 of 2006 dated 21.08.2019 whereby this Court has directed the balance of the amount to be paid to the adopted son. Thirdly quantum of punishment is excessive not inconsumerate with the charges.

3. Per contra, the learned Additional Government Pleader based upon the counter could contend that due to the preparation of erroneous note on the disbursement of amount due to the respondent, in respect of pay commission arrears and surrender leave arrears. The petitioner has deliberately made a note in violation of the service records, namely, the nominee, mother of the deceased, she prepared a note in favour of the adopted son which has resulted in issuance of cheque to the adopted son.

4. Heard both side and perused the records.

5. The service matrix of the petitioner that are necessary for determination in this case are as follows:

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



(a) Tmt.Vimala Bai/the petitioner herein was working as Assistant in the office of the Assistant Director of Survey and Land Records, Nagercoil, Kanyakumari District since 1995 and attained the age of superannuation on 30.04.2014. While the petitioner was working as Assistant in the office of the Assistant Director of Survey Land Records, Nagercoil, pay commission arrears was due to one (Late) N.Sasidharan Nair, Sub-Inspector of Survey and Land Records (Retired), who died after retirement on 07.09.2003. The first legal heir of (Late) N.Sasidharan Nair is his mother Tmt.C.Ponnamma Pillai, who was alive. Hence she was the person, who is eligible to get the pay commission arrears. But the petitioner prepared a note for disbursement of the above arrears to the second legal heir of (Late) N.Sasidharan Nair, namely, Thiru.K.S.Pradeep Chandran, who is said to be the adopted son of the Late N.Sasidharan Nair. On the basis of her note, the amount was sanctioned and disbursed to the above said Thiru.K.S.Pradeep Chandran. Hence, the Assistant Director of Survey and Land Records, Nagercoil issued a charge memo to her dated 29.06.2006 under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules containing 4 counts of charges as follows:

(a) For submitting note for disbursement of the amount towards 60% of pay commission arrears and surrender leave salary, due to the (Late) N.Sasidharan Nair, Sub-Inspector of Survey (Retd.,) to his second legal heir Thiru. K.S.Pradeep Chandran, when the first legal heir Tmt.C.Ponnamma Pillai is still alive.

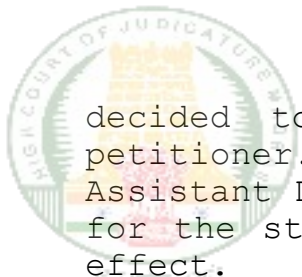
(b) Submitting note without properly verifying the Service Register regarding entry of nomination.

(c) Not disclosing the fact in file No.Na4/8949/2004 that note has been submitted as per the oral instructions of the Superintendent, but instead blaming the higher officials in order to hide her mistake.

(d) Government Servant not discharging her duties properly by submitting wrong note and causing detriment to Government service.

(b) On the basis of the enquiry report, the Assistant Director of Survey and Land Records, Nagercoil, passed an order against the petitioner in Na.Ka.No.5285/2006 dated 31.08.2007 stating that all the charges made against the petitioner have been proved during the enquiry and hence issued orders for stoppage of increment for a period of one year without cumulative effect.

(c) the petitioner preferred an appeal before the Regional Deputy Director of Survey and Land Records, Madurai, who observed that not only the petitioner but even the section superintendent is



decided to decrease the quantum of punishment awarded to the petitioner. Hence, he cancelled the punishment issued by the Assistant Director of Survey and Land Records, Nagercoil and ordered for the stoppage of increments for three months without cumulative effect.

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(d) the petitioner again preferred an appeal on 25.05.2008 before the Additional Director of Survey. The Additional Director of Survey held that as the punishment of stoppage of increment for one year without cumulative effect given to the petitioner by the Assistant Director of Survey and Land Records, Nagercoil, was reduced to three months by the Regional Deputy Director of Survey, Madurai, on appeal, and as the petitioner did not furnish any new reasons in her appeal, held that there is no prima-facie ground for interfering and hence dismissed the appeal of the petitioner.

(e) The petitioner then submitted Revision Petition before the Commissioner of Survey and Settlement and by observing that the petitioner had already submitted a revision petition and orders were issued on it, the Commissioner confirming the orders of punishment issued by the Additional Director of Survey, and hence the revision petition now submitted by the petitioner could not be examined. Against the above order, the petitioner preferred a final appeal before the Secretary to Government, Revenue Department, who found no merits on the contention of the petitioner and passed orders rejecting the application of the petitioner.

6. It is seen from the records that the petitioner joined the Survey and Land Records Department as typist in the year 1982. Thereafter she was promoted as Assistant in the year 1998. She was working as Assistant in the office of the Assistant Director of Survey and Land Records, Nagercoil, Kanyakumari District since 1995 and attained the age of superannuation on 30.04.2014.

7. While the petitioner was working as Assistant in the office of the Assistant Director of Survey and Land Records, Nagercoil, pay commission arrears was due to one (Late) N.Sasidharan Nair, Sub-Inspector of Survey and Land Records (Retired), who died after retirement on 07.09.2003. The first legal heir of (Late) N.Sasidharan Nair is his mother Tmt.C.Ponnamma Pillai, who was alive. Hence she was the person, who is eligible to get the pay commission arrears. But the petitioner prepared a note for disbursement of the above arrears to the second legal heir of (Late) N.Sasidharan Nair. On the basis of her note, the amount was sanctioned and disbursed to the above said Thiru.K.S.Pradeep Chandran. Hence, the Assistant Director of Survey and Land Records, Nagercoil issued charge memo to her dated 29.06.2006 under Rule 17 (b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules containing 4 counts of charges. Due to the above said act of the petitioner, the amount to be paid to Tmt.C.Ponnamma Pillai was



certificate dated 20.04.2004 and the authorisation letter authorising Thiru.K.S.Pradeep Chandran allegedly given by Tmt.C.Ponnamma Pillai, would not in any way vitiate the entry of nominee made by the Late N.Sasidharan Nair in his Service Register, when Tmt.C.Ponnamma Pillai, the nominee was still alive. The act of the petitioner ended in the dis-entitlement of the first legal heir Tmt.C.Ponnamma Pillai in receiving the benefits of her son the late N.Sasidharan Nair.

8(a). Thus the order passed by the disciplinary authority confirmed by the Appellate Authority also reconsidered and confirmed by the Revisional Authority, whereby the finding of the Enquiry Officer that all the charges are proved does not require any interference by this Court.

8(b). Furthermore, the Appellate Authority has rightly pointed out that the concerned seat Clerk is also jointly liable and also reduced the punishment from stoppage of increment from one year without cumulative effect into stoppage of increment for three months. Hence, I do not find any procedural irregularity nor any substantial point in warranting interference with the finding of the Enquiry Officer as confirmed by the Disciplinary and Appellate Authority.

9. The learned counsel for the petitioner would contend that in the W.P.(MD).No.2223 of 2016, this Court has directed the Government to pay the service benefits to Thiru.K.S.Pradeep Chandran, the adopted son and hence this inaction in preferring the note stands justified. This Court is unable to accept and uphold the said contention for more than one reason. First and foremost, the person, who is entitled for arrears of pay commission arrears and surrender leave arrears is the only nominee mentioned in the certificate and hence preparation of note in favour of the adopted son, who is not the nominee per se is the delinquency warranting charge under disciplinary proceedings.

10. Secondly, when W.P.(MD).No.2223 of 2006 came up for hearing on 21.08.2012, the mother of the deceased Government servant, Tmt.C.Ponnammal Pillai died and Thiru.K.S.Pradeep Chandran was the only legal heir to receive the benefits. On the basis of existing legal heir of the deceased Government servant, this Court, by order, dated 21.08.2012 in W.P.(MD).2223 of 2006 had ordered to disburse the said amount to K.S.Pradeep Chandran. The act of the petitioner in seeking reasonability in her malafide acts done, on the basis of the order passed by this Court in the above said writ petition in changed circumstances ie., after the death of the mother of the deceased Government servant, cannot be accepted and thus this ground also stands negatived.

11. Action have been taken against the petitioner for her act of not complying with the mandatory provisions prescribed for the



disbursement of outstanding or retirement benefits of a deceased Government servant to the legal beneficiaries. Initiating disciplinary proceedings under rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules against the petitioner, proper rules and procedures were followed. All the orders and proceedings are passed against the petitioner only after having a full perusal of all available records after giving due consideration to the representation and statements made by the petitioner and following the principles of natural justice.

12. Accordingly, I do not find any procedural irregularities or factual irregularities committed by the Disciplinary Authority or Appellate Authorities and hence the finding of the Enquiry Officer as confirmed by the Disciplinary Authority and Appellate Authorities are hereby confirmed and as stated supra, the fact of the petitioner seeking responsibility in respect of her malafide act done on the basis of the order passed by this Court in W.P.(MD).No.2223 of 2006 is in the changed circumstances namely, when that writ petition has filed the mother of the deceased Government servant is also died and hence this Court has taken the view that in view of the death of the mother of the deceased Government employee, the adopted son has been considered and accordingly passed orders. Such a judicial order cannot wipe out the malafide act done by the petitioner against the said C.Ponnama Pillai, namely, the mother of the deceased Government servant is very much alive on the date of the preparation of the note and as such preparation of note in the disbursement of the service benefits of the deceased employee against the service rules and nomination is bad in law and that the act is the act of delinquency and hence the official respondent has correctly taken the disciplinary proceedings and in the disciplinary proceedings, all the procedures have been duly followed and the charges are held to be proved and order passed by the Appellate Authority in modifying the earlier order of punishment and modifying the same as stoppage of increments for three months without cumulative effect is found to be inconsumerate with the charges proved and the said punishment in no stretch of imagination, it can not be termed as excessive.

13. In this view of the matter, there is no merit in this writ petition and accordingly, this Writ Petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)



To

1.The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
St.Fort George,
Chennai-9.

2.The Commissioner,
Survey and Settlement Department,
Survey House,
Chepauk, Chennai.

3.The Additional Director,
Survey Department,
Chepauk, Chennai.

4.The Regional Deputy Department,
Survey Department,
Madurai-20.

5.The Assistant Director,
Survey Department, Nagercoil,
Kanyakumari District.

+1 CC to M/s.Special Government Pleader (SR-13715[F] dated
06/08/2020)

+1 CC to M/s.T. ANTONY ARUL RAJ, Advocate (SR-13758[F] dated
06/08/2020)

ORDER

MADE IN

W.P. (MD) No.15359 of 2014

05.08.2020

PJL

SDS (13.08.2020) 7P-8C