



WEB COPY

W.P.(MD).No.16088 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.16088 of 2014

and

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

T.Arumugachamy

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of Public Works Department,
Fort St. George, Chennai-600 006.

2.The Engineer-in-Chief WRO
and Chief Engineer (General) PWD
Chepauk, Chennai-600 005.

... Respondents

Prayer: Writ Petition 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 issued by the first respondent State Government vide G.O (D) No.66 Public Works (F2) Department, dated 24.02.2014, quash the same, and further direct the respondents herein to grant forthwith to the petitioner the increments admissible for the year 2011-12 with all attendant benefits.

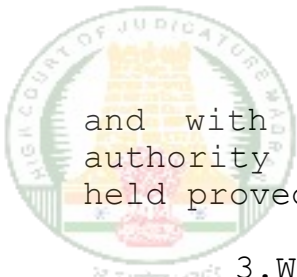
For Petitioner	: Mr.Ragatheeshkumar for M/s.Isaac Chambers
For Respondents	: Mr.C.M.Mari Chellaih Prabhu Additional Government Pleader

ORDER

The order of punishment as well as the review order passed by the respondents, is under challenge in the present writ petition.

2.The petitioner is working as Assistant Executive Engineer and on account of certain allegations, a charge memo was issued in proceedings, dated 19.05.2008 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The petitioner denied his charges. Enquiry was conducted and the Enquiry Officer held the charges are not proved. The disciplinary authority had taken a different view and deviated the findings of the enquiry proceedings. As far as Charge No.1, is concerned, the findings of the Enquiry Officer for exoneration were accepted by the disciplinary authority

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and with reference to the charges 2 and 3, the disciplinary authority arrived a conclusion that the said charges 2 and 3 are held proved.

3. Whenever, the disciplinary authority has taken a decision to deviate the findings of the Enquiry Officer, the procedures to be followed is that the reasons for such deviation ought to be recorded in writing and such reasons must be communicated to the delinquent officers enabling him to submit his explanations/objections regarding such deviations. In other words, the principles of natural justice required that on what ground the disciplinary authority has deviated the findings of the Enquiry Officer. Undoubtedly, the disciplinary authority has empowered to deviate the Enquiry Officer's findings. However, while exercising the power of deviation, the reasons must be recorded in writing and such reasons must be communicated by issuing notice to the delinquent officials and the delinquent officials is at liberty to submit his objections on the deviation.

4. In the present case, admittedly, the first respondent has issued a notice in letter dated 20.08.2010, wherein, the decision for deviation has been stated. However, the reasons for deviation has not been furnished. Simply, it is stated by the first respondent that charges 2 and 3 are held proved, which is contrary to the findings of the Enquiry Officer. A mere decision is insufficient and the decisions must be supported with reasons. Even in case, such reasons are made available in the records. The said reasons must be communicated to the delinquent officer enabling him to submit his objections. In the present case, the said procedure has not been followed. The petitioner was unable to understand the reason for deviation of the findings of the Enquiry Officer by the disciplinary authority. Thus, he was deprived of his opportunity to raise objections on the reasoning for deviation.

5. The learned Additional Government Pleader appearing on behalf of the respondents brought to the notice of this Court that annexure to the Government letter, dated 20.08.2010 provides reasoning. The reading of the annexure reveals that the charge itself is reproduced. The reasoning must be logical and in support of the documents are evidences. Mere reproduction of the charge memo under the guise of reasoning is unacceptable and it cannot be considered as a valid reason for the purpose of deviating the findings of the Enquiry Officer. Therefore, the annexure to the said letter, dated 20.08.2010, cannot be construed as a valid reason for the purpose of taking a decision to deviate the findings of the Enquiry Officer.

6. This being the factum established, this Court is of the considered opinion that the present writ petition is a fit case to remand the matter for reconsideration. Accordingly, the first respondent is directed to communicate the complete reasoning for



deviating the findings of the Enquiry Officer with reference to Charge Nos.2 and 3 by issuing a show cause notice to the writ petitioner and on receipt of the notice, the writ petitioner is at liberty to submit his objections/explanations as per the time limit stipulated by the respondents and thereafter, the respondents are at liberty to pass final orders in this regard. The said exercise is to be done by the respondents within a period of six months from the date of receipt of the copy of this order.

7.With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2020

Sub Assistant Registrar(CS)

sjj

To

1.The Secretary to Government of Tamil Nadu,
Department of Public Works Department,
Fort St. George, Chennai-600 006.

2.The Engineer-in-Chief WRO
and Chief Engineer (General) PWD
Chepauk, Chennai-600 005.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-19376[F]dated 08/10/2020)

+1 CC to SPL GP (SR-19421[F] dated 08/10/2020)

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VB (19.10.2020) 3P 5C