



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.S.RAMESH**

W.P. (MD) No.26143 of 2019

and

W.M.P. (MD) No.22600 of 2019

S.Palanivelu

... Petitioner

/vs./

1.The State of Tamilnadu,
represented by the Additional Chief Secretary and
Secretary to Government,
Revenue and Disaster Management Department,
Secretariat,
Chennai - 600 009.

2.The Principal Secretary and Commissioner
of Survey and Settlement,
Survey House,Chepauk,
Chennai - 600 005.

3.Assistant Director,
Survey and Land Records Department,
Dindigul.

4.G.Ponniyin Selvan

5.The Accountant General (A&E),
361, Anna Salai,
Teynampet,Chennai - 18.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order Na.Ka.La.4/21677/2014 dated 20.12.2016 passed by the 2nd respondent and the G.O.(1D).No.416, Revenue and Disaster Management Department (Land Survey and Settlement Unit, Land Survey 4(2)) Section dated 5.9.2019 passed by the 1st respondent and quash the same and consequently, direct the respondents to grant service, monetary and revised pensionary benefits, within a time limit to be fixed by this Court.

For Petitioner : Mr.A.Thirumurthy

For R1 to R3 : Mr.M.Jeyakumar

Additional Government Pleader

For R5 : Mr.P.Gunasekaran

ORDER

This Writ Petition is filed to quash the order dated 20.12.2016 passed in Na.Ka.La.4/21677/2014 by the 2nd respondent and G.O.(1D).No.416, Revenue and Disaster Management Department (Land Survey and Settlement Unit, Land Survey 4(2)) Section, dated



05.09.2019 passed by the 1st respondent and to direct the respondents to grant service, monetary and revised pensionary benefits to the petitioner.

2.Under Rule 23 of the Tamilnadu Civil Services (Discipline and Appeal) Rules, whenever an appeal against the order of imposing penalty in Rule 8 or 9 is filed, the appellate authority is mandated to consider as to whether the facts on which the order was based have been established, whether the facts established afford sufficient ground for taking action and whether the penalty is excessive, adequate or inadequate.

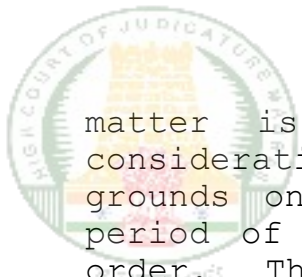
3.Rule 27 (3) of the said Rule empowers the appellate authority to withhold the appeal, if the appeal is not preferred within a period of two months from the date of receipt of the original punishment order.

4.In the instant case, the petitioner was imposed with a punishment of compulsory retirement by the second respondent through an order dated 20.12.2016, as against which, the petitioner herein had preferred an appeal before the first respondent herein on 24.12.2017. The first respondent herein had rejected the appeal predominantly on the ground that the appeal has been belatedly filed after a period of two months. While passing such order, observations were made by the first respondent stating that the order of acquittal passed in the case of the petitioner was on the benefit of doubt. Apart from such observation, no other reason has been assigned in the said order.

5.The learned counsel appearing for the petitioner would submit that after the original order of punishment was imposed, he was awaiting outcome of the criminal proceedings and therefore, he could not prefer appeal against the punishment within the prescribed time of two months. The order of acquittal came to be passed on 13.11.2017 and subsequently, the appeal came to be filed on 24.12.2017. In my view, the order of acquittal would be significant piece of evidence in favour of the petitioner before the appellate authority and therefore, the reason for the delay in filing the appeal as assigned by the petitioner seems to be acceptable.

6.Though the order of the first respondent herein cannot be strictly found fault with, this Court intends to take a lenient view and thereby grant one opportunity to the petitioner to put forth his case before the appellate authority. It is also seen that the petitioner had raised various grounds in his appeal petition and in view of Section 20 (3) of the aforesaid rules, the appellate authority is required to consider the appeal on all these aspects.

7.In the light of the above observations, the impugned order passed by the first respondent dated 05.09.2019 is set aside and the



matter is remanded back to the first respondent for fresh consideration. The petitioner is at liberty to file additional grounds on appeal before the first respondent, atleast within a period of 15 days from the date of receipt of the copy of this order. The first respondent herein shall endeavour to dispose of the appeal, after giving due opportunity to the petitioner and by passing a speaking order in conformity with the procedure contemplated under Rule 23 of the Tamilnadu Civil Services (Discipline and Appeal) Rules, atleast within a period of three months from the date of receipt of a copy of this order. In case, the petitioner files any additional grounds on appeal, the three months period shall commence from the date of receipt of such additional grounds.

8. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Additional Chief Secretary and
Secretary to Government,
Revenue and Disaster Management Department,
Secretariat, Chennai - 600 009.

2. The Principal Secretary and Commissioner
of Survey and Settlement,
Survey House,
Chepauk, Chennai - 600 005.

3. Assistant Director,
Survey and Land Records Department,
Dindigul.

+1 CC to M/s.A.THIRUMURTHY, Advocate (SR-5179[F] dated 07/02/2020)
+1 CC to M/s.SPL GP (SR-5414[F] dated 10/02/2020)
+1 CC to M/s.P.GUNASEKARAN, Advocate (SR-5467[F] dated 10/02/2020)

W.P. (MD) No.26143 of 2019
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