IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Writ Petition No.7526 of 2007
(O.A.No.4666 of 2002)

T.Veerannan .. Petitioner

Vs

1. The Special Commissioner & Commissioner of Revenue Administration,
   Chepauk, Chennai-600 006

2. The District Revenue Officer,
   Tiruchirappalli.

3. The Revenue Divisional Officer,
   Tiruchirappalli. .. Respondents

PRAYER : This writ petition has been originally filed before the Tamil Nadu Administrative Tribunal as O.A.4666/02 and after abolition of TNAT, it has been transferred to this court and renumbered as W.P.No.7526/2007. The prayer is for a writ of certiorarified mandamus to call for the records of the impugned order of punishment of stoppage of increment for three years with cumulative effect vide proceedings Na.Ka.A4.10566/91 dated 25.05.1995 passed by the third respondent, the impugned order Na.Ka.C2.45845/96 dated 19.12.1996 passed by the second respondent and the impugned order Na.Ka.Pani.5(3)/15128/97 dated 16.08.2001 passed by the first respondent herein and quash all of them as null and void and against the principles of natural justice and direct the respondents herein to pass appropriate order of giving appropriate increment and other service and monetary benefits retrospectively.

For Petitioner : Mr.K.Radhakrishnan
For Respondents : Mr.K.Magesh, Spl.Govt Pleader

ORDER

This Writ Petition is filed praying to quash the impugned order of punishment of stoppage of increment for three years with cumulative effect dated 16.08.2001 and for further direction to grant the petitioner appropriate increment and other service and monetary benefits retrospectively.

2. The petitioner joined as a Village Administrative Officer in the year 1985 at the Manakkal East, Tiruchirappalli District. There was an allegation against the petitioner in respect of issuance of community certificate. Hence, suspension order was issued to the petitioner on 11.10.1991 and charge memo dated 03.11.1991 was also served on 06.11.1991. Subsequently, suspension was revoked by the third respondent vide proceedings dated 15.11.1991. The petitioner submitted his explanation on 04.12.1991 to the third respondent. Enquiry officer was appointed and he called the petitioner for personal enquiry. The enquiry officer also called upon the person viz., Vaiyapuri, who was issued with community certificate. After enquiry, the enquiry officer submitted the enquiry report on 09.12.1993. No further explanation was submitted by the petitioner. The third respondent, thereafter, passed the impugned order of punishment vide proceedings dated 25.5.1995 imposing stoppage of increment for three years with cumulative effect. The petitioner filed appeal to the second respondent on 09.08.1995. The second respondent confirmed the order of the third respondent. Further appeal was filed to the first respondent on 21.2.1997 and the first respondent also passed the impugned order dated 16.08.2001 confirming the order of the third and second respondent.

3. Six charges were framed against the petitioner under rule 17(b) of Tamil Nadu Civil services (Classification, control and appeal) rules.

Charge 1 reads that the petitioner who was working as Village Administrative Officer, has issued possession certificate to 18 persons who were not the owners of the sites knowing well that those 18 persons were not having any patta, thereby, the petitioner not followed the Rules prescribed in the statutes for issuance of such pattas.

Charge 2 reads that by issuing such possession certificate, the petitioner without getting suitable instructions from his superior officer, abused his power and caused difficulty to the administration of the Government.

Charge 3 reads that in respect of petition from one Vaiyapuri for his daughters viz., Radha, Geetha and Chandrakala seeking community certificate to the Tahsildar, Thiruchirappalli, the petitioner who was holding the post of Village Administrative Officer, without any authority, made enquiry and thereby he abused his position and furnished false information.

Charge 4 reads that without making any enquiry to the applications viz., Radha, Geetha and Chandrakala, or about Vaiyapuri and without taking note of the important annexure viz., the Educational certificate of the father and mother of above said three applicants, the petitioner made enquiry and thereby, he misguided the superior officers.

Charge 5 reads that the applicants who sought for community certificate were stated to be residing at 10, Sozhapuram, however, later enquiry made it clear that those applicants were not residing there. However, the petitioner made recommendation to the Tahsildar to issue community certificate to the applicants taking it as their address and thereby, concealing the truth, petitioner caused disgrace to his position.

Charge 6 reads that only based on the recommendations and report of the subordinate officers, the higher officials will issue necessary certificates to the applicants and as such, the petitioner who was working as Village Administrative Officer, Chinthamani, abused his position and caused disrepute to the revenue administration.

4. After full enquiry and giving sufficient opportunity to the petitioner to put forth his representation, the third respondent, held that charges are proved and awarded punishment of stoppage of increment for three years with cumulative effect. Against the said order of punishment, the petitioner preferred appeal before the second respondent. The second respondent, after thorough perusal of entire documents, confirmed the order passed by the third respondent.

5. Thereafter, the petitioner filed Review Petition before the first respondent raising certain contentions with regard to the charges framed on him. It is contended that the Tahsildar rejected the house pattas to those 18 persons and thereafter, only issued charge memo which is nothing but false and there was no loss caused to the Revenue department. Further, the petitioner raised contentions that he made enquiry properly on issuance of community certificate to daughters of Vaiyapuri and after verifying the Service Register of Vaiyapuri, he noted the caste as Hindu-Parayan and as such violating the The Tamil Nadu Civil Services Rules is not at all correct and the punishment has been awarded to him without proper enquiry and opportunity.

6. The first respondent after going through entire submissions made by the petitioner, pointed out that the recommendations made by the Village Administrative Officer for issuance of possession certificate to 18 persons was without

instructions from the superior officer and it caused difficulty to the administration. Further, in respect of issuance of community certificate, the petitioner given recommendation for the non-residents and based on the said recommendations, Tahsildar issued community certificate. But the Tahsildar, after getting complaint petition that such persons were not residing in the said door number of the house, enquiry was conducted by the Tahsildar and thereafter, finding that three applicants to whom community certificate issued were not residing in the said address, cancelled the certificate.

7. The 1st respondent further pointed out that the contention raised in the Review petition that with regard to 17 (b) charges on the Tahsildar, lesser punishment awarded to the Tahsildar and the punishment imposed against him is disproportionate, cannot be accepted, as the petitioner who is the lower level officer is expected to perform his job dutiful and the higher authority, based on the recommendations of the lower level officer only issuing orders and in such circumstances, comparing the punishment imposed on him with the higher level officer is not acceptable. The 1st respondent further answering the contention with regard to regularisation of his service during the period of suspension, clearly stated that he has to approach the Tiruchirappalli Revenue Divisional Officer and get relief and further made clear that if he is still having any grievance, he can make appeal over the same. The 1st respondent thus made it clear that for the proven charges, punishment awarded to the petitioner is not disproportionate and no sustainable ground is raised to entertain the review petition.

8. Reply affidavit was filed by the respondents submitting that the allegations levelled against the petitioner that he furnished false information in connection with the issue of community certificate to the ineligible persons were proved during enquiry by the Tahsildar, Tiruchirappalli. The petitioner committed grave irregularities and therefore, he was kept under suspension in the interest of public, however, after initiation of disciplinary proceedings under rule 17(b) of TNCS (classification, control and appeal) rules, he was restored to duty by the Revenue Divisional Officer on 15.11.1991. It is further stated that copy of the report of the enquiry officer was furnished to the petitioner by the Revenue Divisional Officer and it was received by the petitioner and the petitioner only stated before the enquiry officer that he was having nothing to add before the enquiry officer. Since the findings of the enquiry officer were found to be correct, the Revenue Divisional Officer after perusing the connected records, passed orders imposing penalty of stoppage of increment for three years with cumulative effect. Subsequently, on appeal, during the

enquiry, the District Revenue Officer besides giving opportunity to represent his case in person, heard the representation of the petitioner in person on 03.12.1996 and after detailed hearing of the representation, found that the charges levelled against the petitioner were proved and issued orders confirming the Revenue Divisional Officer.

9. In the Reply affidavit, it is also submitted that the contention of the petitioner that he ascertained the facts and submitted the reports to the Higher authority and he cannot be made liable for any charges, proved his irresponsible attitude, who is discharging the duty of a Government servant. The act of the petitioner recommending for the issue of community certificate to the persons who are not actually residing in the address mentioned in their application, was found out during enquiry on receipt of complaint petition against the Village Administrative Officer by the Tahsildar, who issued the community certificate, based on the recommendation of the Village Administrative Officer. It is further submitted that during appeal filed by the petitioner, the District Revenue Officer had verified the connected records. The Tahsildar, had compared the signature of Vaiyapuri, who applied for community certificate for his daughters in the records of the Village Administrative Officer, with those that were available in the earlier application, and found out the difference between the signatures and detected the irregularity committed by the petitioner and then cancelled the certificates.

10. Heard and perused the records.

11. On going through the entire averments made in the writ petition and the reply affidavit filed by the respondents on the one hand and the impugned order passed by the 1st respondent on the other hand, it is very clear that there is no violation of procedures in the departmental proceedings and sufficient opportunity was granted to the petitioner to put forth his contentions. After taking into consideration the submissions on behalf of the petitioner and after going through the enquiry report, punishment of stoppage of increment for three years with cumulative effect was awarded to the petitioner. In the appeal and review also, on a finding that the charges are proved and the petitioner committed irregularity, rejected his appeal and review.

12. The charges against the petitioner are that he issued possession certificate to 18 persons who are not the owners of the sites and that he recommended for issuance of community certificate as scheduled caste to those who were not actually

residing in the address mentioned in the applications. So the benefits to fictitious persons and unfit beneficiaries recommended by the petitioner were found to be gross irregularity and it was proved by the department. The role of the Tahsildar cannot be equated with the petitioner. Based on the information and recommendation given by the petitioner/Village Administrative Officer, the Tahsildar issued certificate. Even though the Tahsildar would have cross verified the information passed by the petitioner, believing the information and recommendation given by the petitioner, the Tahsildar acted bonafidely. However, for gross negligence, the Tahsildar was imposed a lesser punishment. The petitioner is solely responsible for entire irregularities committed by him. Therefore, the punishment imposed on the petitioner is not disproportionate. In view of the serious nature of allegations and proven charges, the disciplinary authority awarded the punishment of stoppage of increment for three years with cumulative effect and the appellate authority as well as the Revisional Authority also confirmed the same, which in the considered opinion of this court is not at all disproportionate. This court does not find any merit in the writ petition. Therefore, this writ petition is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

NVSRI

To

1. The Special Commissioner
   & Commissioner of Revenue Administration,
   Chepauk, Chennai-600 006

2. The District Revenue Officer,
   Tiruchirappalli.

3. The Revenue Divisional Officer,
   Tiruchirappalli.

+1cc to Mr.K.Radhakrishnan, Advocate, S.R.No.19606
+1cc to the Government Pleader, S.R.No.20154

W.P.No.7526 of 2007

PL(CO)
TE(20/04/2021)