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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

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THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.7859 of 2010

M.Subramaniam ... Petitioner

Vs.

1. The District Collector,
Vellore, Vellore District.

2. The Commissioner,
Nattrampalli Panchayat Union,
Thirupattur Taluk,
Vellore District. ... Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the relevant records pertaining to the orders of dismissal passed by the District Collector Vellore district Vellore the 1st respondent herein vide his proceedings No. Na.Ka.pg 1/1062/2009 dt 10.8.2009 and the order of the Commissioner Nattarampalli Panchayat Union Thirupattur taluk the 2nd respondent herein vide his proceedings No.Na.Ka. A5/622/08 dt 26.8.2009 and quash the same as illegal arbitrary unreasonable being violative of rules and principles of natural justice and thereby direct the respondents to permit the petitioner to retire with effect from 5.6.2007 on attaining the age of superannuation with all monetary and service benefits.

For Petitioner : Mr.V.Thirupathi

For Respondent No.1 : Mr.U.M.Ravichandran, Spl.G.P.

For Respondent No.2 : Mr.R.Thirugnanam

O R D E R

According to the petitioner, the petitioner was working as Noon Mean Organizer at Panchayat Union Elementary School, Thirupattur Taluk, Vellore District. The second respondent initiated disciplinary proceedings against the petitioner and charge framed on 22.3.2002 for non payment of Rs.59,063/- payable by the petitioner towards deficit of stocks. Out of

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Rs.59,063/- a sum of Rs.16,518/- has been paid by the petitioner and the remaining amount of Rs.42,540/- not paid by the petitioner to the respondent Panchayat Union and therefore, charge memo served on the petitioner and the petitioner also submitted his explanation on 30.4.2002. However, there is no progress in the disciplinary proceedings for more than seven years and no steps taken by the respondent Panchayat Union to conclude the disciplinary proceedings. Therefore, the petitioner has filed writ petition before this Court in W.P.No.8627 and 8628 of 2009 challenging the aforesaid charges. This Court by order dated 30.4.2009 recorded that the petitioner was not paid subsistence allowance and the disciplinary proceedings are pending for more than 7 years and therefore, directed the respondent to conclude the disciplinary proceedings initiated under Charge memo, dated 22.3.2002 and pass orders within a period of three months from the date of receipt of copy of the order, otherwise, the petitioner is entitled to come back to this Court for a direction to settle all benefits to him. Pursuant to the aforesaid order passed by this Court, the respondent took notice on 16.6.2009 and directed the petitioner to pay the outstanding amount of Rs.42,545/- to the respondent. The petitioner submitted detailed explanation to the respondent. Thereafter, the respondent passed the impugned order by imposing punishment of dismissal from service on 10.8.2009. Challenging the impugned order passed by the respondent, the petitioner has filed the instant writ petition before this Court on the ground that the petitioner was not provided opportunities by conducting detailed enquiry and instead, the respondent passed the final order without following relevant Rules. Therefore, the impugned order is liable to be set aside on the ground of violation of principles of natural justice.

2. The second respondent has filed counter affidavit wherein it is stated that the second respondent by its letters dated 16.6.2009 and 22.6.2009 called for explanation form the petitioner for the charges levelled against the petitioner and directed the petitioner to pay Rs.42,525/-. The second respondent by its proceedings, dated 18.7.209 held that since the petitioner has ignored his higher officials and found fault with the administration and his explanation was not acceptable and therefore, the second respondent sent his proceedings, dated 18.7.2009 to the first respondent. The first respondent passed the impugned order of dismissal from service with effect from 22.3.2002. Therefore, there is no inordinate delay in conducting the disciplinary proceedings. Consequently, the writ petition is liable to be dismissed.

3. Heard the rival submissions of the parties and perused the materials available on record.

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4. According to the petitioner, in view of the direction passed by this Court, the respondent in a hurried manner, without conducting detailed enquiry, passed the impugned order. The charges levelled against the petitioner are only for recovery of amount from the petitioner. The petitioner also sent his detailed explanation. The petitioner is ready and willing to pay the amount to the respondent department. Without taking note of the same, the respondent mechanically passed the impugned order. Therefore, the impugned order is liable to be quashed.

5. The learned counsel appearing for the first respondent would submit that disciplinary proceedings initiated against the petitioner for non payment of amount payable by the petitioner towards deficit of stocks and charges were framed against the petitioner. As directed by this Court, opportunities granted to the petitioner to deposit the amount payable by the petitioner to the respondent. Despite, the petitioner has not come forward to deposit the said amount, therefore, the impugned order has been passed by the respondent.

6. Counsel appearing for the second respondent has taken a same stand taken by the counsel appearing for the first respondent. If the petitioner has come forward to settle the amount, the impugned order passed by the respondent does not arise. It is only on account of denial of the petitioner to pay the amount payable towards deficit of stocks, the impugned order has been passed by the respondent. Therefore, there is no warrants to interfere with the order passed by the first respondent.

7. According to the learned counsel appearing for the petitioner, the respondent has not conducted detailed enquiry to come to the conclusion of major punishment that has been awarded against the petitioner. On perusal of the charge memo would clearly show that there is no provisions has mentioned under which charges framed against the petitioner. Pursuant to the order passed by this Court in W.P.No.8627 and 8628 of 2008, dated 30.4.2009, the respondent has served show cause notice to the petitioner to settle the aforesaid amount to the respondent. The petitioner submitted detailed explanation that he undertakes to settle the said amount to the respondent Panchayat Union and also paid a sum of Rs.10,000/- to the respondent. The statement made by the petitioner in the explanation as well as the statement made in the affidavit filed in earlier writ petition has not been taken note of by the respondent department. Therefore, the respondent mechanically passed the impugned order and the same is liable to be set aside on the ground of violation of principles of natural justice.

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8. In view of the above, the impugned order passed by the respondent, dated 10.8.2009 is quashed. The petitioner is directed to make representation to the respondent to settle the terminal benefits to the petitioner in the light of the impugned order quashed by this Court. On receipt of such representation, the respondent is directed to settle the terminal benefits to the petitioner after deducting the amount payable by the petitioner to the respondent Panchayat Union, within a period of 12 weeks from the date of receipt of copy of the order. The first respondent shall consider for payment of subsistence allowance payable to the petitioner during the suspension period.

9. The writ petition is allowed to the extent indicated above. No cost.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Vaan

To

1. The District Collector,
   Vellore, Vellore District.

2. The Commissioner,
   Nattrampalli Panchayat Union,
   Thirupattur Taluk, Vellore District.

+1cc to Mr.V.Thirupathi, Advocate, S.R.No.68207
+1cc to Mr.R.Thirugnanam, Advocate, S.R.No.68749
+1cc to the Special Government Pleader, S.R.No.69027

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RP(CO)
CT 19/01/2022

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