



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.9253 of 2018

(Through Video Conferencing)

K.Sampath Kumar

... Petitioner

Vs.

1.The Government of Tamil Nadu
rep. by the Secretary to the Government,
Revenue, Disaster Management and
Mitigation Department, Fort St.George,
Chennai - 600 009.

2.The Collector,
Villupuram, Villupuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent in G.O.2D.No.29, Revenue and Disaster Management and Mitigation, (Personnel) - 10(1) Department dated 29.01.2018 and quash the same and direct the respondents to reinstate the petitioner in service with all consequential benefits including back wages and continuity of service.

For Petitioner : Mr.P.Manojkumar

For Respondents : Mr.LSM.Hasan Fizal, G.A.

O R D E R

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent in G.O.(2D) No.29, Revenue and Disaster Management and Mitigation, (Personnel) - 10 (1) Department, dated 29.01.2018 and quash the same and direct the respondents to reinstate the petitioner in service with all consequential benefits.



2. It is the case of the petitioner that the petitioner along with four others were found to be Accused Officers. The details of the Accused Officers are given as follows:-

Accused No.1 :Mani, Special Tahsildar (ADW), Tindivanam.

Accused No.2 :K.Sampth Kumar, Warden, Government College Adi Dravidar Welfare Boys Hostel, Olakkur. (the petitioner herein)

Accused No.3 :B.Vinayagamorthy, Government College Adi Dravidar Welfare Boys Hostel, Tindivanam.

Accused No.4 :P.Jeyamurthy, Government College Adi Dravidar Welfare Boys Hostel, Vellimedupatti.

Accused No.5 :C.Chinnarasu, the Junior Assistant in the office of the Special Tahsildar (ADW), Tindivanam.

3. The above Accused Officers were found to be in possession of unaccounted cash of Rs.1,47,450/- totally and were found red handed which resulted in initiation of disciplinary proceedings. An Enquiry Officer was appointed and the Enquiry Officer has given a report dated 23.01.2014, wherein, while rejecting the explanation of the petitioner and other Accused Officer, the Enquiry Officer has recommended to award a minor penalty on the Accused Officer Nos.2, 3 & 4. The Enquiry Officer has stated that except they were counting the cash, it cannot be said they were collecting any bribe.

4. The petitioner thereafter sent an additional representation to the first respondent through the District Collector, Villupuram on 17.11.2014. The respondents have obtained the views from the third respondent Tamil Nadu Public Service Commission vide Letter No.743/DCD-B1/2017-2, dated 06.11.2017.

5. The learned counsel for the petitioner further submits that without furnishing the aforesaid views of the third respondent Tamil Nadu Public Service Commission to the petitioner, the impugned order has been passed.

6. It is further submitted that after recording the content of the Enquiry Report, statement of the petitioner, the respondent has passed a non-speaking order without giving any explanation to justify as to why the finding given by the Enquiry Officer was to be accepted.



7. The learned counsel for the petitioner further submits that the petitioner was the Second Accused in the disciplinary proceedings and the Fourth Accused in the disciplinary proceedings had challenged the order of dismissal from service in W.P.No.15149 of 2018, where, after considering the decision of the Hon'ble Supreme Court in S.N.Narula Vs. Union of India and others, (2011) 4 SCC 591, this Court has set aside the order of the first respondent by holding that the order was a non-speaking order as it passed without furnishing a copy of the views of the third respondent Tamil Nadu Public Service Commission (TNPSC).

8. The learned Government Advocate for the respondents submits that though the order in W.P.No.15149 of 2018 has been passed in the same proceedings initiated against the Fourth Accused, namely P.Jayamurthy, this is a fit case for upholding the impugned order of the first respondent.

9. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

10. This Court has already taken a view in the same proceedings which has been stated above in W.P.No.15149 of 2018. That apart, impugned order of the first respondent clearly shows that there was no application of mind in as much as there was no discussion as to why the explanation of the petitioner was to be rejected. The copy of the views of the third respondent Tamil Nadu Public Service Commission which form parts the basis of the impugned order was also not furnished to the petitioner before passing the impugned order.

11. Under these circumstances, this Court is inclined to set aside the impugned order of the first respondent by remitting case back to the first respondent to pass a fresh order by following due procedure of law. The first respondent shall endeavour to complete such proceedings within a period of eight weeks from the date of receipt of a copy of this order.

12. This Writ Petition is disposed with the above observations. No cost.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar



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To

1.The Secretary,
Revenue, Disaster Management and Mitigation Department,
The Government of Tamil Nadu
Fort St.George, Chennai - 600 009.

2.The Collector,
Villupuram, Villupuram District.

W.P.No.9253 of 2018

AJS (CO)
PR (12/08/2021)