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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.NO.839 OF 2018
AGAINST
W.P.NO.900 OF 2012
AND
C.M.P.NO.7346 OF 2018

1. The State of Tamil Nadu,
Rep. by its Secretary,
Transport Department (H1),
Secretariat,
Fort. St.George,
Chennai.
2. The Director,
Tamil Nadu Motor Vehicles Maintenance Department,
Velachery Main Road,
Velachery, Chennai - 32.
3. The Automobile Engineer (I/C),
Government Automobile Workshop,
Cuddalore - 2.
4. The Enquiry Officer and Deputy Zonal Director,
Motor Vehicles Maintenance Department,
Madurai Zone, Madurai - 20.

... Appellants/Respondents

.Vs.

V.Subramanian

... Respondent/Petitioner

PRAYER:-

Writ Appeal filed under clause 15 of the Letters Patent Act against the final order dated 02.02.2018, made in W.P.No.900 of 2012.



Prayer in W.P.No.900 of 2012:-

To issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the 1st respondent impugned order Government Order, Government Order (D) No.37, dated 12.05.2011 and quash the same and direct the respondents to reinstate the petitioner in the same service and also grant all consequential benefits.

For Appellants : Mr.C.Jayaprakash
Government Advocate

For Respondent : Mr.K.Raja
For Mr.M.Kaviveerappan

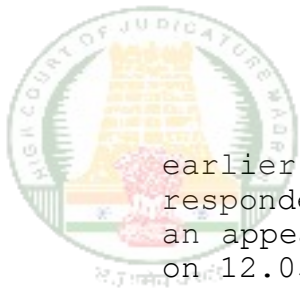
JUDGMENT

(Delivered by Pushpa Sathyanarayana.J.,)

This Writ Appeal is directed against the order of the learned Single Judge made in W.P.No.900 of 2012 dated 02.02.2018.

2. The writ petition was filed by the respondent/writ petitioner to quash the proceeding dated 12.05.2011, which was issued against him by the first appellant herein. It appears that there has been a serious allegation made against the respondent while he was working as a Typist in the appellant Department. He was issued with a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (D&A) Rules, alleging that he has committed forgery and obtained a loan from Valayamadevi Melpathi Primary Agricultural Co-operative Bank Ltd., to the tune of Rs.25,000/-. He was also placed under suspension pending disciplinary proceedings. During enquiry, the charges were proved and his further explanation was called for. In response, the respondent submitted a detailed explanation. Considering his representation, an order was passed by the second appellant cancelling the enquiry proceedings and ordering appointment of a fresh enquiry officer and directing him to proceed with the enquiry.

3. In the interregnum, the respondent filed a writ petition in W.P.No.41969 of 2006, challenging his suspension order and the same was disposed of by this Court on 03.11.2006, with a direction to pass final order on the charge memo within a period of four weeks. However, the second appellant, without conducting the proceedings afresh, based on the enquiry conducted earlier, called for explanation from the respondent in regard to the



earlier enquiry report and passed the final order dismissing the respondent from service. Against which, the respondent preferred an appeal before the first appellant and the appeal was rejected on 12.05.2011, confirming the order of dismissal.

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4. Aggrieved over the same, the respondent filed another writ petition in W.P.No.900 of 2012 and the Writ Court found that the charge against the petitioner is one of forgery, which is serious offence and that cannot be viewed lightly. However, taking note of the fact that when the authority cancelled the enquiry proceeding and appointed another Enquiry Officer to proceed with the enquiry, the order impugned therein ought not to have been passed based on the erstwhile enquiry report, set aside the order of the suspension dated 04.12.2006 and the proceedings dated 12.05.2011 and directed to proceed with the enquiry afresh, pursuant to the charge memo dated 29.01.2004. A further direction was also given to place the writ petitioner under suspension till the enquiry was completed. The acquittal of the writ petitioner in the criminal case for the very same charge was taken note of by the learned Single Judge.

5. Since the learned Single Judge has rightly ordered de-novo enquiry, we could not understand why the Government has preferred the present appeal, as the Government cannot be aggrieved by the de-novo enquiry. The appeal itself is an unnecessary exercise. Therefore, we are of the opinion that the appeal deserves to be dismissed and the appellants are directed to complete the enquiry within a period of six months from the date of receipt of a copy of this order.

6. In the result, the Writ Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
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Chennai.



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4. The Enquiry Officer and Deputy Zonal Director,
Motor Vehicles Maintenance Department,
Madurai Zone, Madurai - 20.

+1cc to Mr.M.Kaviveerappan, Advocate, S.R.No.43968
+1cc to the Government Pleader, S.R.No.43920

W.A.NO.839 OF 2018 AND
C.M.P.NO.7346 OF 2018

AJS(CO)
PBS/28/09/2021