



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) No. 17369 of 2014 and

M.P(MD).No.1 of 2014

WEB COPY

R. Sakthivel

:Petitioner

..Vs..

1.The Principal Secretary to the Government,
Department of Rural Development and Panchayat Raj,
Secretariat,
Chennai - 600 009.

2.The Director,
Commissionerate of Rural Development and
Panchayat Raj, Panagal Building,
Jeenis Road, Saidapet,
Chennai - 600 015.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ in the nature of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings Na.Ka.En. 94663/2002/TPC.1-2, dated 01.10.2014, issued by the 2nd respondent / the Director, Department of Rural Development and Panchayat Raj, Chennai - 600 015 and quash the same and consequently, direct the respondents to withdraw the punishment order of deducting Rs.200/- from his pension for a period of one year.

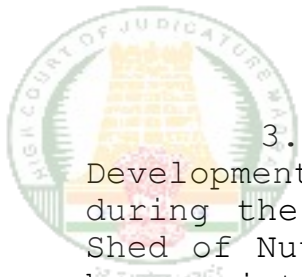
For Petitioner : Mr. C. Masilamani

For Respondents : Mrs. D. Farjana Ghoushia
Special Government Pleader

O R D E R

The present Writ Petition is filed to quash the impugned proceedings in Na. Ka. No. 94663/2002/TPC.1-2, dated 01.10.2014, issued by the 2nd respondent and consequently, direct the respondents to withdraw the punishment order of deducting Rs.200/- from his pension for a period of one year.

2. The petitioner had worked at Kadamalaikundu - Mayiladumparai Panchayat Union as an Additional Block Development Officer from 05.04.1999 to 30.09.2000 and attained superannuation in the year 2000. After retirement, the petitioner was issued with charge memo with four charges. This charge memo was issued two months prior to the completion of four years from the date of retirement, by invoking Rule 9(2) of the Tamil Nadu Pension Rules.



3. The brief fact of the case are that one Muthiah, Block Development Officer and three others involved in Corruption cases during the period 1992-1993 in relation to construction of Kitchen Shed of Nutritious Meals Centre. The Engineer of the Union ought to have maintained the Measurement Books Nos. 36(A)/85, 60/86-87. For the purpose of enquiry these M Books were taken by DVAC and returned by the Inspector of Police, DVAC to one Mr. Ramaiah, Extension Officer, Panchayat received on behalf of the Commissioner, Mayiladumparai Panchayat Union, Madurai District through a letter DVAC Memo Number 18/93/RDP/MU dated 06.06.1993.

4. The contention of the petitioner is that from 1992 to 2000, including the petitioner some 14 different Additional Block Development Officers worked in the place. The petitioner is the 14th officer worked between 05.04.1999 to 30.09.2000. The petitioner states that he has never received that book. But, however, the charges were framed against the petitioner and enquiry was conducted and the punishment was imposed as Rs.200/- cut from the pension benefits for one year.

5. The respondents have filed a counter stating that the original books was handed over by DVAC authorities. But the petitioner while in service during 1999 to 2000 had replied in a way to mislead the enquiry officer and his action is the cause for diluting the enquiry process. The respondents also stated that the Block Development Officer is being the Head of Office, is the custodian of M. Books of the completed works and this could not be denied at all. The M. Books are to be maintained under the safe custody of the Union Engineers, till passing of bills as the Union Engineers are the officials to make necessary measurements and they are working under the control of the Block Development Officers. The petitioner cannot simply derelict from his duties and responsibilities. In fact he should have acquired the records from the Union Engineer who are the subordinate authority and send the same to the Superintending Engineer. Since there is dereliction in duty the stoppage of Rs.200/- from his pension was imposed as punishment and the same is legally sustainable and valid.

6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. The contention of the petitioner is he was working as a Block Development Officer from 1999 to 2000 and prior to his office from 1999 there are 13 officers are served in the place. The petitioner did not receive the books and therefore he could not be blamed for not producing the books. The respondents have admitted in their counter that the Union Engineers are custodian of the M. Books. The contention of the respondents is that the Block Development Officer being the Head of the Office is the custodian of the M. Books and being Head of the Office, he ought to have acquired



the M. Books from the Engineer and submitted the records for enquiry. Because of petitioner's negligence the documents were not found out and placed for department enquiry.

8. On seeing the rival contention admittedly the books were received by someone else and not by the petitioner. However subsequently the books are not available and the counter of the respondents states that "the documents required were not found out and placed for department enquiry". Therefore, this Court is of the considered opinion that the records are lost and then the respondents ought conduct an enquiry involving the 14 officers who were holding the post. Since the petitioner is the 14th officer proceedings cannot be initiated against the petitioner alone. This Court could not find any proper reasoning for initiating the disciplinary proceedings that too on the verge of four years period. It is seen from the records that the respondents have not taken any action against any Union Engineers, against any Block Development Officer and also against the said Ramaiah, who received the records. For all these reasons the impugned order is set aside. If the amount is deducted then the respondents are directed to return the amount to the petitioner and if not deducted the respondents are directed not to deduct further.

9. Accordingly, the Writ Petition is allowed as stated above. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

trp

To

1.The Principal Secretary to the Government,
Department of Rural Development and Panchayat Raj,
Secretariat, Chennai - 600 009.

2.The Director,
Commissionerate of Rural Development and Panchayat Raj,
Panagal Building, Jeenis Road, Saidapet, Chennai - 600 015.

+1 CC to M/s.SPL GP (SR-38628[F] dated 14/12/2021)

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na (CO)

TR(04.02.2022) 3P 4C

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