



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 08.04.2022
Pronounced on : 11.05.2022

Coram

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No. 25077 of 2009
and W.M.P.Nos. 2 of 2010 and 6885 of 2022

S.Udaiyasankar

...Petitioner

Vs.

1. The State of Tamilnadu,
Rep.by its Special Secretary to Government,
Finance (T & A) Department,
Fort St.George,
Chennai-600 009.
2. The Treasury Officer,
District Treasury,
Cuddalore.
3. The Principal Secretary/
Commissioner of Treasuries and Accounts,
Treasuries and Accounts Department,
Panagal Buildings, Saidapet, Chennai-15.

(R3 impleaded as per order dt.29.04.2010
in WMP.No1/2010 in WP.No.25077/2009)

... Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India to call for the records pertaining to the order of the 1st respondent dated 13.10.2009 in G.O.Ms.No.502 Finance (T&A-1) Department, quash the same and consequently direct the respondents to pay the petitioner death cum gratuity, award costs.

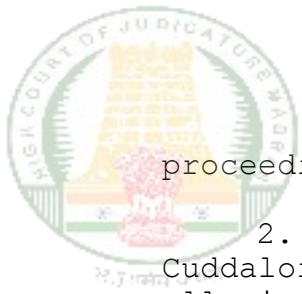
For Petitioner : Mr.M.Muthupandian

For Respondents: Mr.R.L.Karthika

Government Advocate

O R D E R

The short question that arises for consideration is as to whether the impugned order passed beyond the time lines/period fixed by this Court to complete the disciplinary proceedings would prove fatal to the validity of the order and render the



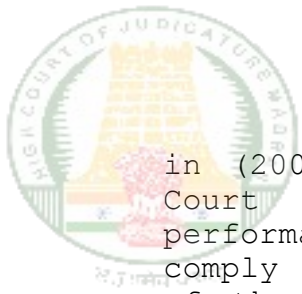
proceedings bad in law.

2. The petitioner who was working as a Sub-Treasury Officer, Cuddalore was issued a charge memo on 24.01.2002 inter alia alleging lapses in payment of Military pension. The petitioner submitted his reply to the said charge memo vide letter dated 19.04.2002 which was forwarded to the enquiry officer. There was considerable delay in concluding the disciplinary proceedings. The petitioner approached the Tamil Nadu Administrative Tribunal in O.A.No.1361 of 2004, praying for a direction to the respondents to expeditiously dispose of the disciplinary proceedings. The tribunal was pleased to issue a direction to the respondents to dispose the enquiry and pass final orders as early as possible. However, despite the above direction the disciplinary proceedings were kept pending, the petitioner filed Writ Petition in W.P.No.26729 and 26730 of 2004 before this Court, praying for a direction to complete the disciplinary proceedings initiated vide charge memo dated 24.01.2002. This Court was pleased to direct the respondents to conclude the disciplinary proceedings, within a period of two months from the date of receipt of a copy of that order. In other words in terms of the orders of this Court, the disciplinary proceedings ought to be concluded on or before 20.11.2004. Pursuant to that a letter dated 02.11.2004 was issued to the petitioner calling for explanation to the enquiry report. The petitioner submitted his reply to the enquiry report on 01.12.2004. Thereafter, on 30.10.2008 the petitioner was allowed to retire pending disciplinary proceedings and the impugned order came to be passed finally on 13.10.2009, which is almost 5 years from the date of receipt of order of this Court in W.P.No.26729 and 26730 of 2004, wherein direction was issued to conclude the disciplinary proceedings within a period of two months.

3. To a pointed question as to whether they have obtained any extension of time inasmuch this Court vide order dt.20.09.2004 had specifically directed conclusion of disciplinary proceedings within a period of 2 months thereon. It was submitted by the Counsel for the respondent that no such direction nor any petition seeking extension of time was filed. The impugned order having been passed 5 years thereafter, will be in gross violation of the said direction.

4. Without examining the merits of the case this Court is of the view that failure on the part of the respondents to comply with the directions of this Court itself would vitiate the disciplinary proceedings and render the same bad in law and liable to set aside.

5. In this regard it may be relevant to refer to the decision in Dr.N.Shahida Begum v. State of Tamil Nadu reported



in (2006) 2 MLJ 143 wherein it has been held that once this Court issues directions for completion of proceedings or performance of act within a particular time line failure to comply with such direction would be fatal to the very validity of the proceeding/order. It may be relevant to refer to the following passages in the said order :

" Hence, he was constrained to file W.P. No. 1247 of 1996 and this Court granted time to complete the enquiry within three months, which was not complied with. Thereafter, time was extended to pass a final order on the ground that enquiry shall be completed within one month. Even then no orders were passed and the second Enquiry Officer was appointed and when further time was prayed, this Court has refused to grant the same. Therefore, when once the Court has refused to extend the time for completion of enquiry, the petitioner filed the contempt petition for non-compliance of the order dated 26.11.1997 passed in the miscellaneous petition filed in W.P. No. 1247 of 1996. The learned Judge, while closing the contempt petition, allowed the writ petitioner to peruse the records and submit his explanation within the period as stated in para 11 of the affidavit and the respondents are directed to pass a final order.

7. Accordingly, the respondents passed the impugned order, which, in our considered view, is without any authority and is liable to be set aside on the ground that when this Court refused to extend the time for completing the enquiry for the alleged irregularities committed by him during the period from 1981-82 to 1987-88 when he was working as Executive Engineer, Ooty (on the basis of the audit report) and by virtue of the orders passed by this Court, he was reinstated and even though time was granted to complete the enquiry, they failed to complete the same."

6. A division bench of Bombay High Court held that failure to comply with the time lines fixed by this Court was held to prove fatal to the very validity of the order. The relevant portion of the judgment is extracted below:

On the backdrop of these undisputed facts, it was incumbent on the respondent to complete the enquiry and submit the report of such enquiry on or before June 15, 1986. Since the respondent failed to complete the enquiry within the stipulated period,



the right to proceed with the enquiry after June 15, 1986 came to an end, consequently, the enquiry so initiated vide charge-sheet dated March 10, 1986 stands vitiated after June 15, 1986.

WEB COPY

7. It may also be relevant to refer to the case of K.Jeyakumar v. The Inspector General of Registration in Writ Appeal No.931 of 2013. The relevant portion of the judgment is extracted as under:

4. The main contention of the appellant before the learned single Judge, as could be seen from the grounds raised in the writ petition is that this Court having fixed the time limit to initiate disciplinary proceedings and complete the same within a period of three months from the date of initiation, without seeking extension of time, the department is not justified in issuing the charge memo that too after seven years and the matter in issue is covered by the judgment of the Division Bench of this Court, reported in (2010) 3 MLJ 625 [State of Tamil Nadu, rep. by its Secretary to Government, Personnel and Administrative Reforms (Q) Department, Chennai-9 v. T. Ranganathan] (in which one of us N.P.V., J. is a member) wherein also the time limit mentioned by the Tribunal having not been complied with and the continuance of the proceedings being without seeking extension of time, the Division Bench of this Court set aside the order of the learned single Judge.

8. It is thus clear from the above decision that once time lines are fixed by this Court, any proceedings beyond the same, in the absence of any extension would prove fatal to the very validity of the order.

9. In view of the same the impugned proceedings are liable to be set aside inasmuch as it has been made almost 5 years after the time fixed by this Court has expired. Accordingly, this writ petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Psa



To :

1. The Special Secretary to Government,
The State of Tamilnadu,
Finance (T & A1) Department,
Fort St.George,
Chennai-600 009.
2. The Treasury Officer,
District Treasury,
Cuddalore.
3. The Principal Secretary/
Commissioner of Treasuries and Accounts,
Treasuries and Accounts Department,
Panagal Buildings, Saidapet, Chennai-15.

+lcc to Mr.G.Mutharasu, Advocate, S.R.No.31351
+lcc to the Government Pleader, S.R.No.31412

W.P. No.25077 of 2009 and
W.M.P.Nos.2 of 2010 and 6885 of 2022

NR(CO)
CT 24/05/2022