



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.32725 OF 2012

S.Gandeepan

...Petitioner

Vs.

1.The District Collector,  
Thiruvallur District.

2.The Principal Commissioner,  
Commissioner of Revenue Administration,  
Chepauk, Chennai - 5.

3.The Secretary to Government,  
Revenue Department,  
Fort St.George,  
Chennai - 9.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records from the file of the 1<sup>st</sup> respondent herein with regard to the impugned order in R.C.No.15411/2008/A2 dated 13.09.2012 and quash the same and further direct the respondents to give a promotion to the petitioner as on the date of his eligibility with all monetary benefits.

For Petitioner : Mr.S.Prabhu

For Respondents : Mr.T.Chezhiyan  
Additional Government Pleader

ORDER

On charges of dereliction of duty, the petitioner was originally levelled with charges through a charge memo dated 04.09.1998, wherein the Enquiry Officer found all the charges to have been "not proved". However, the disciplinary authority had deferred from the findings of the Enquiry Officer and imposed a punishment of "stoppage of increment for a period of one year with cumulative effect". On appeal, the punishment was modified from one year to six months, without cumulative effect. When the



petitioner had challenged the punishment before this Court in W.P.No.36887 of 2004, the punishment was set aside on the ground of violation of principles of natural justice. However, this Court had granted liberty to the respondents to proceed further, if they desire. On the basis of this liberty, the disciplinary authority had extended opportunity to the petitioner and through the impugned order dated 13.09.2012, the same punishment of stoppage of increment for 6 months without cumulative effect, was imposed.

2. A perusal of the impugned punishment reveals that the first respondent herein, had extracted the charges and the findings of the Enquiry Officer, along with the explanations rendered by the petitioner. Thereafter, the first respondent had expressed his views, as to the charges of dereliction of duty on the part of the petitioner and accordingly imposed the punishment.

3. Whenever, the disciplinary authority intends to defer from the findings of the Enquiry Officer, there is a duty cast on him to substantiate as to why the findings of the Enquiry Officer is flawed. Furthermore, the disciplinary authority is also required to render his views on the evidences before the Enquiry Officer, since the charges in the original enquiry report were held to have been "not proved".

4. Rule 17(b) (i) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, provides that any representations made by the delinquent officer, should be taken into consideration by the disciplinary authority before imposing any penalty. In the instant case, apart from reiterating the statements made by the petitioner, the first respondent herein had not dealt with the statements made in the petitioner's explanations at all. This apart, when the Enquiry Officer, had conducted a full-fledged enquiry and found the charges to have been "not proved" under the Rules, the disciplinary authority is required to substantially establish as to how the Enquiry Officer had deviated from the evidences. Furthermore, he should also establish that the evidences let-in in the enquiry, implicates the delinquent officer. In the absence of these substantial findings, the order deviating from the Enquiry Report, cannot be sustained.

5. It will not be out of place to mention here that earlier when a similar punishment was imposed on a same set of charges, the order was set aside by this Court, on the ground of violation of principles of natural justice. In the present case, though the explanations of the petitioner have been extracted in the impugned order of punishment, such explanations have not been dealt with by the first respondent herein, which



effectively can be termed as violation of principles of natural justice. Thus, the present impugned order is once again in violation of principles of natural justice and therefore, the petitioner would be entitled to succeed in the present writ petition.

6. It is now brought to the notice of this Court that the petitioner herein, had reached the age of superannuation and retired from service in the year 2013 itself. It is the further submission of the learned counsel for the petitioner that pending the disciplinary action, the promotion list for the post of Deputy Zonal Tahsildar was prepared on 27.12.2011 and in view of the pendency of the departmental action, the petitioner's name was not included in the list, though his juniors were promoted from the same panel.

7. Now this Court has found that the departmental action initiated against the petitioner is illegal and the petitioner would be entitled for all the service and monetary benefits including the promotional benefits.

8. In the light of the above findings, the impugned order in R.C.No.15411/2008/A2, dated 13.09.2012, on the file of the first respondent, is quashed. Consequently, there shall be a direction to the first respondent herein, to pass appropriate orders extending all the service and monetary benefits, including the notional promotion to the post of Deputy Zonal Tahsildar under the promotional panel, dated 27.12.2011 and consequently, release all the monetary benefits to the petitioner, including the pensionary benefits. The first respondent shall pass such orders, atleast within a period of three (3) months from the date of receipt of a copy of this order.

9. Accordingly, this Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

Pns

To

1.The District Collector,  
Thiruvallur District.

2.The Principal Commissioner,  
Commissioner of Revenue Administration,  
Chepauk, Chennai - 5.



3.The Secretary to Government,  
Revenue Department,  
Fort St.George,  
Chennai - 9.

WEB COPY

+1cc to Mr.S.Prabhu, Advocate, Sr.No.20171

+1cc to the Government Pleader, Sr.No.20631

W.P.No.32725 of 2012

MT(CO)  
RVM(11/04/2022)