



WP.No.8970 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.07.2022

CORAM

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

WP.No.8970 of 2018
& WMP.No.10821 of 2018

P.Vinayagamurthy

.. Petitioner

Versus

1.State of Tamil Nadu, rep. by its
Secretary to Government,
Revenue and Disaster Management
Department, Secretariat,
Chennai – 600 009.

2.District Collector,
Villupuram District,
Villupuram - 605 602.

3.The Commissioner,
Tribunal for Disciplinary Proceedings,
Chennai – 600 108.

4.The Special Tahsildar [ADW],
Tindivanam, Villupuram District.

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records



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pertaining to the order passed by the 1st respondent in G.O.(2D).No.30 Revenue and Disaster Management Department dated 29.01.2018 and quash the same and direct the respondents to confer all the consequential benefits to the petitioner.

For Petitioner : Mr.P.Ganesan

For Respondents : Mr.U.M.Ravichandran
Special Government Pleader

ORDER

The prayer sought for herein is for a writ of Certiorarified Mandamus, to quash the order passed by the 1st respondent in G.O.(2D).No.30 Revenue and Disaster Management Department dated 29.01.2018 and direct the respondents to confer all the consequential benefits to the petitioner.

2.The petitioner was working as a Warden in Adi Dravidar Welfare Hostel, against whom disciplinary proceedings was initiated which ultimately ended in the punishment of compulsory retirement by orders of the Government in G.O.(2D).No.30 Revenue and Disaster Management Department dated 29.01.2018. Challenging the said order, the present writ petition has been filed.



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3. When the case was taken up on 15.06.2022, it was submitted by Mr.P.Ganesan, learned counsel appearing for the petitioner that two other officers similarly placed like that of the petitioner in the same episode, who were also working as Warden in different hostel has faced the disciplinary proceedings, against whom also order of punishment of compulsory retirement was awarded by the State Government and in respect of one P.Jayamurthy, the said punishment was awarded in G.O.(2D).No.31 dated 29.01.2018 and in respect of one K.Sampath Kumar, on the same day, G.O.(2D).No.29 was issued imposing the same punishment.

4. Against those punishment orders, i.e. G.O.(2D).No.31 dated 29.01.2018 and G.O.(2D).No.29 dated 29.01.2018 of the Revenue Department imposing punishment of compulsory retirement against those two persons, they had approached this Court and filed writ petitions in W.P.No.15149 of 2018 and W.P.No.9253 of 2018.

5. The said writ petitions, W.P.No.9253 of 2018 was disposed of by a learned Judge of this Court by order dated 06.08.2021 and previously



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W.P.No.15149 of 2018 was disposed of by another learned Judge dated 22.03.2021. In both the orders, on the ground that the report from the Tamil Nadu Public Service Commission obtained by the respondents before inflicting the punishment against the said petitioners since had not been served on the petitioners, the order of punishment was set aside in both the cases and in both the cases, the matter was remitted back to the respondents for re-consideration.

6.Only at that juncture, the following order was passed on 15.06.2022 by this Court:

“The impugned order in this case is not an isolated case as there were charges framed against five officers including the petitioner. In respect of each one of them, ultimate punishment of compulsory retirement was imposed by the respondent employer, as against which two have approached this Court already, one is P.Jayamurthy in W.P.No.15149 of 2018 and another one is one K.Sampath Kumar who filed W.P.No.9253 of 2018. Both the cases were disposed of by the two learned Judges on different dates ie., the first case was disposed of on 22.03.2021 followed by the second case



on 06.08.2021. In both the cases, orders impugned therein having been set aside, the matter was remanded back to the respondents with a direction to conduct enquiry afresh in accordance with law.

2.Pursuant to which, whether such enquiry has been conducted and if so what is the progress of such enquiry has to be ascertained, based on which further orders can be passed in this writ petition, as the petitioner is also similarly placed. Hence, the learned Special Government Pleader seeks time to get such instructions and report before this Court. Post on **22.06.2022.**”

7.When the case was taken up for hearing, the learned Special Government Pleader appearing for the respondents, on instructions, would submit that pursuant to the remand order passed in the said two writ petitions, the disciplinary proceedings is still pending and no final decision is taken, he submitted.

8.Having considered the said development taken place and by following the said two decisions referred above, where the similarly placed



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persons arising out of the same charge who also suffered with similar punishment as that of the petitioner had approached this Court and in the two separate writ petitions filed by them, the said punishment was set aside on the ground that the report of the Tamil Nadu Public Service Commission was not given and the matter is remitted back, pursuant to which the disciplinary proceedings is still pending against them, this Court feels that the present order dated G.O.(2D).No.30 dated 29.01.2018 also has to face the same fate. The reason being that in the case of the petitioner also no such report of the Service Commission furnished to him.

9.In that view of the matter, this Court is inclined to dispose of this writ petition with the following order:

- ◆ That the impugned order is set aside and the matter is remitted back to the respondents for re-consideration where after following the procedures established under law by serving copies which ought to have been served to the petitioner, it is open to the respondents to proceed further in the disciplinary proceedings and reach the conclusion based on merits and in accordance with law.
- ◆ The needful as indicated above shall be undertaken by the



respondents within a period of three months from the date of receipt of a copy of this order.

10. With these directions, the writ petition is disposed of. No costs.

Consequently, connected miscellaneous petition is also closed.

07.07.2022

cse

Internet : Yes

Index : Yes/No

To

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R.SURESH KUMAR, J.,

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