



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.42898 of 2016

P.Subbuthai
Town Planning Officer,
Hosur, Muicipality,
Hosur, Krishnagiri District. ... Petitioner
Vs.

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Municipal Administration,
Chepauk,
Chennai - 600 005.

3.The Commissioner,
Avadi Municipality,
Avadi. ... Respondents

PRAYER: This Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified mandamus calling for the records relating to the impugned order of the first respondent issued in G.O.(D) NO.480, MAWS (M.E.II), Department, dated 03.11.2009 imposing the penalty of stoppage of increment for five years with cumulative effect and also the consequential order issued by the first respondent in G.O.(D).No.486, MAWS(M.E.3) Department, dated 18.09.2013 rejecting the Review Petition filed by the petitioner and quash the same and consequently direct the respondents to restore the increments due to the petitioner within a reasonable period as may be fixed by this Court.

For Petitioner : Mr.T.Ranganathan

For R1 & R2 : Mr.E.Veda Bagath Singh
Special Government Pleader

For R3 : Mr.P.Srinivas



O R D E R

Based on certain articles and objections, the petitioner along with others were imposed with certain charges of dereliction of duty, thereby causing loss to the third respondent-Municipality.

2.It is submission of the learned counsel for the petitioner that the charges against the co-delinquents were dropped and that the punishment of stoppage of increment for a period of five years with cumulative effect imposed on the petitioner, is selective discrimination. This apart, the learned counsel also submitted that the impugned order passed by the Government dated 03.11.2009 is a non speaking order.

3.The learned Special Government Pleader on the other hand submitted that the charges are serious in nature and therefore, the punishment is proportionate to the levelled charges and hence, does not require any interference.

4.In the light of the submissions made, the impugned order of the Government, dated 03.11.2009 was perused. Though the order seems to have been passed in over several pages, the findings are found only in paragraph No.3 onwards, whereby, the Government had observed that on consideration of the further representation of the petitioner, there are no fresh grounds for re-consideration of the findings of the Enquiry Officer and therefore, had imposed the punishment. There is absolutely no discussion with regard to the findings by the Enquiry Officer and whether such findings were established on the facts of the case.

5.Rule-10 of the Tamil Nadu Municipal Services (Discipline and Appeal) Rules - 1970 stipulates that all orders of punishment shall state the grounds on which they are based. In the instant case, apart from stating that there are no fresh grounds raised by the petitioner for re-consideration the findings of the Enquiry Officer, no other reason has been assigned as to how the Government had come to conclusion that the punishment of stoppage of increment for a period five years with cumulative effect was imposed. There are also no findings as to whether the Enquiry Officer had come to a correct conclusion based on the evidence before him. This apart, the Government had also failed to analyse as to whether the punishment is proportionate to the levelled charges.

6.As pointed out by the learned counsel for the



petitioner, charges against some of the co-delinquents seems to have been dropped and it is his submission that the nature of the charges for those co-delinquents are similar to that of the petitioner herein. If the charges against those co-delinquents are similar, imposing a major punishment for the petitioner and dropping charges for others, may amount to discrimination and consequently, punishment itself cannot be sustained.

7. However, since this Court has found that impugned order of the Government is a non-speaking order, it would be appropriate to remit the matter back to the Government for fresh consideration.

8. It is seen that as against the order of the Government, the petitioner herein seems to have preferred a Review Petition also before the Government, which was rejected on 18.09.2013 and like the main original order of punishment, the order passed in Review Petition also seems to be non speaking single line order.

9. For all the reasons stated above, the impugned order dated 03.11.2009, issued by the first respondent in G.O.(D) No.480, MAWS (M.E.II), Department, is set aside and the matter is remitted back to the first respondent herein for re-consideration. The first respondent shall endeavour to re-consider the entire report of the Enquiry Officer along with evidences and after due consideration of the same, shall pass a speaking order. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. The petitioner is also at liberty to give a fresh representation for the purpose of substantiating that there was a discrimination between the petitioner and other co-delinquents.

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

Sd/-
Assistant Registrar (CS-I)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Chennai - 600 009.



2.The Commissioner of Municipal Administration,
Chepauk,
Chennai - 600 005.

3.The Commissioner,
Avadi Municipality,
Avadi.

+1cc to Mr.T.Ranganathan, Advocate SR.No.3193
+1cc to Mr.P.Srinivas, Advocate SR.No.3454
+1cc to the Government Pleader SR.No.3428

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RSV(CO)
GN(10/02/2022)