



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.3219 of 2014

B.Samundeeswari

...Petitioner

-Vs-

1.The District Programme Officer,
Integrated Child Development Project,
Vellore.

2.The Child Development Project Officer,
Arakkonam, Vellore District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the first respondent herein in proceedings No.4698/A1/2013 dated 06.01.2014, quash the same and consequently direct the respondents herein to confer all the benefits with due regards to the petitioner seniority.

For Petitioner : Mr.R.S.Anandan

For Respondents: Mr.E.Veda Bagath Singh,
Special Government Pleader

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. On charges that the petitioner herein had produced a bogus community certificate, she was subjected to a domestic enquiry. Based on the enquiry report dated 06.02.2013, wherein the charges were held to be proved, the impugned order dated 06.01.2014 was passed, dismissing the petitioner from the services. This order of dismissal is put under challenge in the present writ petition.

3. The learned counsel for the petitioner predominantly raised a ground that in the enquiry, no documents were relied upon and no witnesses were examined and therefore, the proceeding itself is vitiated.



4. On the other hand, the learned Special Government Pleader for the respondents submitted that the enquiry was on the basis of the report of Tahsildar, which evidences that the petitioner's community certificate is a bogus one. Since the concerned revenue official has issued a letter stating that the community certificate of the petitioner is bogus, there is no infirmity in the proceedings.

5. In a departmental proceeding, though the charges does not require to be proved, like the one in a criminal trial and that the Enquiry Officer could proceed with the enquiry on preponderance of probabilities of the case, such possibility should also be established through evidences in the enquiry. Particularly, in a case where the charge is based on documents, like the one in the present case, such documents, like the community certificate and the report of the Tahsildar, requires to be produced in the enquiry and the delinquent should be given an opportunity to test the veracity of those documents.

6. The Hon'ble Supreme Court, in the case of Roop Singh Negi Vs. Punjab National Bank and others reported in (2009) 2 SCC 570, had upheld this proposition, by holding that evidences against the delinquent requires to be proved through witnesses. The relevant portion of the judgement reads as follows:-

"14. Indisputably, a departmental proceeding is a quasi judicial proceeding. The Enquiry Officer performs a quasi judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the Investigating Officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the Enquiry Officer on the FIR which could not have been treated as evidence."

7. In the instant case, it is not in dispute that no documents were produced and that the Enquiry Officer had not examined any oral witnesses. In the absence of the same, the entire enquiry proceeding itself is vitiated and the consequential punishment cannot be sustained. However, since the charges seem to be serious in nature, it would be appropriate to remit the matter back to the Disciplinary Authority for



conducting a fresh enquiry, after marking the relevant documents in the enquiry and substantiating the contents thereof through witnesses.

8. In the light of the above observations, the impugned order dated 06.01.2014 is quashed. Consequently, the matter is remitted back to the first respondent herein for the purpose of conducting a fresh enquiry. The first respondent is at liberty to appoint a new Enquiry Officer, if required, and on such appointment, the relevant documents and witnesses should be examined during the course of enquiry, after giving due opportunity to the petitioner to cross examine the witnesses. The Enquiry Officer shall complete the entire proceedings atleast within a period of 3 months from the date of appointment of the Enquiry Officer.

9. Accordingly, the Writ Petition stands partly allowed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

hvk

To

1.The District Programme Officer,
Integrated Child Development Project,
Vellore.

2.The Child Development Project Officer,
Arakkonam, Vellore District.

+1 cc to Mr.R.S.Anandan, Advocate Sr.NO. 25170

+1 cc to Government Pleader Sr.NO. 26141

W.P.No.3219 of 2014

pl(CO)

A.SK(26/04/2022)