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W.P.No. 17938 of 2017



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 17938 of 2017

and

W.M.P.No. 19490 of 2017

P. Govindan

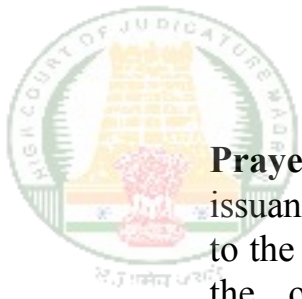
... Petitioner

Vs.

1. The Principal Secretary/Commissioner
Survey and Settlement,
Chepauk, Chennai – 600 005.
2. The Regional Deputy Director,
Survey & Land Records Department,
Coimbatore -18.
3. The Assistant Director
Survey & Land Records Department,
Dharmapuri.
4. The State of Tamil Nadu,
Secretary to Government,
Revenue Department,
Fort St. George, Chennai – 600 009

(The fourth respondent is suo motu
impleaded by SMSJ by order dated 20.10.2022)

... Respondents



Prayer: Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the third respondent herein in Na.Ka.G3/6995/2006 dated 30.03.2012, and the order passed by the second respondent herein in appeal in Na.Ka.A4/1830/2015 dated 2.09.2016 and the order passed in the re-consideration petition in Na.Ka.A4/1830/2015 dated 26.10.2016 by the second respondent and the consequential order passed by the first respondent in Na.Ka.La1/31062/2016 dated 14.02.2017 and quash the same and consequently direct the first respondent herein to confer all the consequential benefits including promotion with due regards to petitioner's seniority and release petitioner retirement benefits with interest.

For Petitioner	: Mr. R. A. Anandan
For Respondents	: Mr. S. Rajesh Government Advocate R1 to R4

ORDER

The punishment of stoppage of increment for 6 months with cumulative effect imposed in proceedings dated 30.03.2012 and the appellate order rejecting the appointment in proceedings dated 14.02.2017 are under challenge in the present writ petition.

2. The petitioner was appointed as Field Surveyor and consequently promoted to the post of Firka Surveyor and further promoted to the post of Sub-Inspector of Survey.



3. The petitioner retired from service on 31.01.2015. A charge memo was issued against the writ petitioner under Rule 17 (b) of the Tamil Nadu Civil Service (Disciplinary and Appeal) Rules in proceedings dated 21.12.2006. The charges are regarding the abatement of encroachment and certain malpractice and corrections made in the Government documents. The allegations against the writ petitioner are serious in nature. The disciplinary authority appointed an enquiry officer who inturn conducted an enquiry and submitted his report holding that the charges are not proved against the writ petitioner. Not accepting the findings of the enquiry officer, the disciplinary authority issued final orders imposing punishment of stoppage of increment with cumulative effect. The appeal filed by the petitioner was rejected.

4. The learned counsel for the petitioner mainly contended that the disciplinary authorities empowered to dissent to findings of the officer. However, in such circumstances, the charged official is entitled for opportunity to submit his defence in respect of the dissenting opinion of the disciplinary authority. In the present case, no such opportunity was given to the petitioner and the disciplinary proceedings unilaterally dissented. The findings of the enquiry officer on imposing penalty and the ground raised in this regard before the appellate authority was also not considered and thus the



orders impugned are liable to be set aside.

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5. The learned Government Advocate appearing on behalf of the respondents is enable to establish that the procedure contemplated in the event of dissenting with the enquiry officer findings, by the disciplinary authority could not be established. Thus, there is a infirmity in respect of the procedures followed at the time of passing of the final orders by the disciplinary authority in this regard.

6. In view of the fact that the petitioner has already been allowed to retire from service, and the Government being a competent authority to pass final orders in the cases of the retired employees, the Secretary to Government, Revenue Department, State of Tamil Nadu, Fort St. George, Chennai – 600 009, is suo motu impleaded as fourth respondent, for the purpose of following the procedures and pass final orders in the departmental disciplinary proceedings. Accordingly, the impugned orders passed by the third respondent herein in Na.Ka.G3/6995/2006 dated 30.03.2012, and the order passed by the second respondent herein in appeal in Na.Ka.A4/1830/2015 dated 2.09.2016 and the order passed in the re-consideration petition in Na.Ka.A4/1830/2015 dated 26.10.2016 by the



second respondent and the consequential order passed by the first respondent in Na.Ka.La1/31062/2016 dated 14.02.2017, are quashed and the matter is remitted back to the impleaded 4th respondent, for re-consideration. The fourth respondent is directed to issue a show cause notice assigning reasons for disagreeing with the findings of the enquiry report along with the copy of the enquiry report to the petitioner and provide him opportunity to submit his explanation/objections if any and thereafter take a decision and pass appropriate orders on merits and in accordance with law as expeditiously as possible without causing undue delay. The writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

20.10.2022

mrn

Index : Yes / No

Speaking order / Non-Speaking order

To

1. The Principal Secretary/Commissioner
Survey and Settlement,
Chepauk, Chennai – 600 005.



WEB COPY

W.P.No. 17938 of 20



2. The Regional Deputy Director,
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Coimbatore -18.

3. The Assistant Director
Survey & Land Records Department,
Dharmapuri.

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Revenue Department,
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Fort St. George, Chennai – 600 009

S.M.SUBRAMANIAM, J.

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