IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.34718 of 2018

K.Bakthavatchalam ...Petitioner

Vs.

1. The Secretary to Government of TamilNadu,
   Revenue Department, The Secretariat,
   Fort St.George, Chennai 600009.

2. The Commissioner of Revenue Administration,
   Chepauk, Chennai 600005.

3. The District Collector,
   Kancheepuram District, Kancheepuram.

4. The District Revenue Officer,
   Kancheepuram Division, Kancheepuram. ..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the entire records relating the impugned orders, dated 31.10.2018 G.O.No.(2D) No.338 passed by the 1st Respondent and dated 23.2.2016 Ref.Proc.No.SER3(1) /10541/2014 passed by the 2nd respondent and order dated 27.10.2008 Ref.Rc.No.A3/ 9556 / 08 passed by the 3rd Respondent and quash the same.

For Petitioner : Mr.S.Thanka Sivan

For Respondents : Mr.D.Gopal,
Government Advocate .

ORDER

The order of punishment of stoppage of increment of one year without cumulative effect imposed by the Disciplinary Authority, which was confirmed by the Appellate Authority as well as the Revisional Authority, are under challenge in the present writ petition.

2. The petitioner states that he was holding the post of Tahsildar and retired from service on 30.04.2012 as Special Tahsildar (Land Acquisition). While the petitioner was working as Divisional Excise Officer, Chengalpattu Division, a Charge Memorandum under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, was issued to him. The allegation against the writ petitioner was supervisory lapses, which resulted in excess mining by the Contractors, resulting in monetary loss to the State Exchequer. The petitioner defended his case by submitting objections to the allegations. The Authorities Competent considered and found that the lapses were established and imposed the punishment of stoppage of increment for one

year without cumulative effect. The petitioner preferred an appeal before the Commissioner of Revenue Administration, who in turn confirmed the said punishment imposed by the Disciplinary Authority in the proceeding dated 23.02.2016. Thereafter, the petitioner preferred a Revision before the Government and the Government also confirmed the punishment in G.O.(2D) No.338, dated 31.10.2018.

3. The learned counsel for the petitioner mainly contended that the Commissioner of Revenue Administration, Mr.Atulya Misra, decided the Appeal, when he was holding the said post of Commissioner of Revenue Administration. Subsequently, the very same officer Mr.Atulya Misra also decided the Revision Petition filed by the petitioner while holding the post of Principal Secretary to Government, Revenue Department. Therefore, the order passed by the Revisional Authority is to be set aside.

4. The learned counsel for the petitioner further contended that in respect of the similar allegations, the Authorities have taken a lenient view and imposed the punishment of penalty of censure in other cases. Therefore, the Authorities have discriminated the writ petitioner in the matter of the

quantum of punishment, which was imposed in respect of similarly placed persons.

5. Regarding the merits, this Court cannot take a decision nor adjudicate the disputed issues. Disciplinary proceedings are initiated under Rule 17(a) in the Discipline and Appeal Rules and as per the Rules, summary proceedings are contemplated. Thus, the Authorities Competent issued a Charge Memo and on receipt of the objections of the delinquent Official, final order has been passed. The Disciplinary Authority has assigned reasons for his conclusion.

6. However, the very same Appellate Authority, Mr.Atul Mishra decided the Revision while holding the post of Secretary to the Government, Revenue Department. The same Authority cannot decide the Appeal as well as the Revision, which is infirm. Therefore, the order of the Revisional Authority is to be set aside and the matter is to be reconsidered by the Revisional Authority / Government.

7. Accordingly, the Revisional Order passed by the first respondent in G.O.(2D) No.338, Revenue Department dated 31.10.2018 alone is quashed.

8. The matter is remanded back to the first respondent for fresh consideration and accordingly, the first respondent is directed to consider the Revision Petition filed by the writ petitioner on merits and in accordance with law and pass appropriate orders within a period of 12 weeks from the date of receipt of a copy of this order.

9. With the abovesaid directions, the writ petition stands allowed in part. However, there shall be no order as to costs.

11.10.2022

Index : Yes
Speaking order
sha/Svn

To

1. The Secretary to Government of TamilNadu,
   Revenue Department, The Secretariat,
   Fort St.George, Chennai 600009.

S.M.SUBRAMANIAM, J.

sha/Svn

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