



W.P.(MD) No.9319 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.07.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.9319 of 2020
and W.M.P.(MD).No.8484 of 2020

M.Ravindran Mariappan

... Petitioner

Vs.

1.The Principal Secretary to Government,
Youth Welfare and Sports Development (YW),
Fort Saint George,
Chennai – 600 009.

2.The Deputy Director General of NCC,
NCC Directorate (TN, P & AN),
Fort Saint George,
Chennai – 600 009.

3.The Group Commander,
NCC Group Head Quarters,
No.2, V.R.Road, Visalashipuram,
Madurai – 625 014.

4.The Commanding Officer,
3(TN) Naval Unit NCC,
401, South Cotton Road,
Thoothukudi – 628 001.

... Respondents



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PRAYER : Writ petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, by calling for the entire records pertaining to the impugned order passed by the 1st respondent vide his proceedings in G.O.(2D) No.6 Youth Welfare and Sports Development (YW1) Department, dated 13.10.2017, whereby, confirming the order passed by the 2nd respondent vide his proceedings in Memo No.1332/203/SC/RM, dated 20.09.2016 and quash the same and consequently, direct the respondents to revise the petitioner's salary, terminal benefits and pension within a specified period as fixed by this Court.

For Petitioner : Mr.T.Lajapathi Roy for Mr.S.Balaji

For Respondents : Mr.R.Ragavendran for R1, R3 and R4
Government Advocate

Mr.S.Jeyasingh for R2
Senior Panel Counsel

ORDER

Heard the learned counsel for the petitioner, the learned Government Advocate appearing for the respondents 1, 3 and 4 and the learned Senior Panel counsel appearing for the second respondent.



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2. On the strength of the proven charges, the petitioner herein was imposed with the punishment of withholding two annual increments with cumulative effect by the second respondent through an order, dated 20.09.2016. As against the order of punishment, the petitioner had preferred an appeal before the first respondent herein on 27.10.2016. In the appeal petition, the petitioner herein had raised several grounds, challenging the order of the Disciplinary Authority imposing the punishment. However, without reference to the grounds raised by the petitioner, the Appellate Authority had passed a cryptic order in G.O.(2D) No.6 Youth Welfare and Sports Development (YW1) Department, dated 13.10.2017, by confirming the order of the second respondent herein.

3. The charges against the petitioner were framed under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955. The appeal was preferred by the petitioner under Rule 19. Rule 23 prescribes the power and procedure of the Appellate Authorities in disposing of an appeal imposing penalty under Rule 8 and Rule 9. As per the said Rule, the Appellate Authority while disposing of the appeal,



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shall consider whether the facts on which the order was based have been established; whether the facts established afford sufficient grounds for taking action; and whether the penalty was excessive, adequate or inadequate. In the instant case though the petitioner herein had raised a ground stating that the punishment was disproportionate to the proven charge, such a ground was not addressed by the Appellate Authority, which is contrary to the procedure contemplated under Rule 23. This apart, when the petitioner comes forward with the specific ground that reasonable opportunity was extended to him, there was a duty cast upon the Appellate Authority to address this aspect also. However, in the impugned order of the Appellate Authority, the appeal was rejected merely on the ground that the appellant has not adduced any valid grounds in the appeal. As such there is absolutely no independent appraisal of the facts of the case as required under Rule 23.

4. In normal circumstances, this Court would have remitted the matter back to the Appellate Authority for the purpose of passing of a speaking order. However, in the instant case, the petitioner had reached the age of superannuation on 31.01.2020. At this stage, if the matter is



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remitted back to the Appellate Authority for fresh consideration, further prejudice could be caused to the petitioner. On the other hand, if the punishment awarded is reduced by invoking the powers of this Court under Article 226 of the Constitution of India, the ends of justice could be secured.

5. Accordingly, the impugned order in G.O.(2D) No.6 Youth Welfare and Sports Development (YW1) Department, dated 13.10.2017, is hereby quashed, insofar as it imposes the punishment of stoppage of increments for a period of two years “with” cumulative effect is concerned. Consequently, there shall be a direction to the Disciplinary Authority/second respondent herein to pass appropriate orders forthwith, imposing the punishment of stoppage of increments for a period of two years “without” cumulative effect. The first respondent shall also pass necessary orders, disbursing all service and monetary benefits arising out of the modified punishment, within a period of six weeks from the date of receipt of a copy of this order.



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6. With the above directions, this writ petition stands partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

20.07.2022

Index : Yes / No
Speaking Order/ Non Speaking Order

TM

To

- 1.The Principal Secretary to Government,
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M.S.RAMESH,J.

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