



W.P.(MD).No.10892 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD).No.10892 of 2022

and

W.M.P.(MD).No.7861 of 2022

I.Loyola Joseph Arokiyadass

... Petitioner

Vs.

**The District Collector,
O/o.District Collector,
Thirunelveli District,
Thirunelveli.**

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the respondent vide his proceedings **ந.க.எண்.ந5/30387/2021-1** dated 26.03.2022 and quash the same as illegal.

**For Petitioner : Mr.M.Ajmal Khan,
Senior Counsel,
For Ajmal Assoicates.**

**For Respondent : Mr.G.Suriyananth,
Additional Government Pleader.**



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ORDER

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The order of punishment of dismissal from service dated 25.03.2022 (served on 26.03.2022) is put under challenge in the present Writ Petition.

2. The petitioner herein was levelled with certain charges through a charge memo dated 21.10.2021. Not being satisfied with the petitioner's explanation, an enquiry came to be conducted and through the enquiry report dated 21.01.2022, the charges against him were held to be proved. The petitioner herein had submitted his further explanation dated 17.02.2022. However, without consideration of his further explanation, the impugned order of dismissal from service dated 25.03.2022, came to be passed. Among the various grounds raised by the petitioner in the present Writ Petition, one of the main ground raised is that the impugned order of punishment is a non speaking order.



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3. The petitioner herein was proceeded with the departmental action under Rule 17(b) of the Tamil Nadu Civil Service (Disciplinary and Appeal) Rules (hereinafter referred to as 'the Rules'). As per Sub rule(ii), the Disciplinary Authority is mandated to consider the evidences adduced during the enquiry, as well as the objections raised in the further representation of the delinquent and thereafter, impose the punishment.

4. Most of the aforesaid procedures, as contemplated under section 17(B) of the Rules, have been given a go-by in the instant case. A perusal of the impugned order reveals that the respondent herein had extracted the findings of the Enquiry Officer and without any discussion, had imposed the major punishment. Though the impugned order of punishment runs to about 12 pages, the findings of the Disciplinary Authority is found only in the ultimate paragraph of the order. Even therein, there is absolutely no findings, except for a solitary sentence that the District Collector had decided to impose the punishment of dismissal from service on the petitioner. The impugned order therefore, is a non-speaking order, passed without any application of mind, which is in total violation of the procedure contemplated under Rule 17(b) of the Rules.



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5. In this background, if the respondent herein is called upon to pass fresh orders based on the evidences adduced during the enquiry, as well as the petitioner's objections in his further explanation, the ends of justice could be secured.

6. Accordingly, the impugned order of punishment, **ந.க.எண்.டி5/30387/2021-1** dated 25.03.2022 is quashed and the matter is remitted back to the respondent herein, who shall pass fresh orders, by consideration of the evidences adduced during the enquiry, as well as the objections raised by the petitioner in his further explanation dated 17.02.2022, within a period of four (4) weeks from the date of receipt of a copy of this order.

7. Since this Court has not gone into the merits of the case while setting aside the order of punishment, the petitioner shall not be entitled for reinstatement. However, if the respondent fails to pass a detailed speaking order, within the aforesaid stipulated period of four weeks, the petitioner shall be reinstated back into service, but without backwages, subject to the final orders to be passed.



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8. This Writ Petition is ordered accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

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Index : Yes / No
Internet : Yes/ No
Nsr

To

The District Collector,
O/o.District Collector,
Thirunelveli District,
Thirunelveli.



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M.S.RAMESH, J.

Nsr

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