



W.P(MD)No.2254 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.2254 of 2019

and

W.M.P.(MD)No.1785 of 2019

Pon Nandagopal

... Petitioner

Vs.

1.The Principal Secretary,
Tourism, Culture and Endowment Department,
Fort St.George, Chennai – 9.

2.The Commissioner,
Hindu Religious & Charitable Endowment,
Gandhi Adigal Salai,
Nungampakkam,
Chennai – 34.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to quash the G.O.No.(Pa)No.124 dated 05.12.2018 issued by the 2nd respondent by calling for the records from the 1st respondent and quash the same as illegal consequentially directing the respondents to sanction the Pensionary benefits.

For Petitioner : Mr.R.Murali

For Respondents : Mr.J.Ashok,
Addl. Government Pleader.



W.P(MD)No.2254 of 2019

ORDER

Heard the learned counsel on either side.

2.The writ petitioner joined the Hindu Religions and Charitable Endowment Department as Grade I Executive Officer in the year 1979. In the year 2010, he was working as Assistant Commissioner at Thiruvarur. He was issued with charge memo dated 03.08.2011 alleging lack of supervision on his part. Enquiry was conducted. The enquiry officer rendered finding that the charge against the writ petitioner has not been proved. The Government disagreed with the findings of the enquiry officer. It issued notice to the writ petitioner and after considering his further representation, passed impugned G.O.(Pa) No.124, Tourism, Culture and Endowment Department, dated 05.12.2018 holding that the charges framed against the writ petitioner have been proved. It imposed the punishment of cut in pension of Rs.3,000/- per month for a period of seven years. Questioning the same, the present writ petition has been filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to quash the impugned order and allow the writ petition as prayed for.



W.P(MD)No.2254 of 2019

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4.The learned Additional Government Pleader for the respondents submitted that the writ petitioner as Assistant Commissioner was under an obligation to ensure that the endowed properties coming under the purview of department are protected. In this case, the petitioner had failed to discharge the said obligation. That is why, he was held guilty of lack of supervision and also wanting in devotion to duty. The impugned order does not call for interference in his submission.

5.I carefully considered the rival contentions and went through the materials on record. The charge against the writ petitioner is that the endowed property in question is located in the center of Thiruvarur town; the petitioner was working as Assistant Commissioner, Hindu Religious and Charitable Endowment Department, Thiruvarur; the persons who had an evil eye on the property had installed stones so as to plot it out. Since the property is lying in the center of city, the petitioner while going to office would have definitely seen the acts of encroachment committed on the endowed property. Yet, he he had not advised the Executive Officer to recover the property. This indicates lack of supervision and lack of devotion to work.



W.P(MD)No.2254 of 2019

6.I fail to understand as to how such a charge could have been framed against the writ petitioner. The charge itself is inherently not maintainable.

There is nothing on record to show that the petitioner was aware that the property in question was an endowed property and that he wilfully turned a blind eye to the acts of encroachment. It is not in dispute that the property in question is what is known as Kattalai land. The Kattalai is managed by trustees. The petitioner is not one of the trustees. It is not as if the lands had been alienated. Mere installation of stones on endowed land could not have attracted the petitioner's attention. It is all the more so because the petitioner states that he was not aware that it was Kattalai property. On such a frivolous allegation, the petitioner was charged. The enquiry officer rightly rendered a finding that the charge has not been proved. The disciplinary authority without any basis chose to differ from the findings of the enquiry officer. When an enquiry officer has rendered a finding of fact in favour of the delinquent, unless there are good reasons, the disciplinary authority ought not to differ from the same. I am more than satisfied that the petitioner has not committed any act of misconduct. The impugned order is set aside and the writ petition is allowed.

7.The learned counsel for the petitioner states that since interim order was not granted, every month a sum of Rs.3,000/- has been deducted from the



W.P(MD)No.2254 of 2019

writ petitioner's pension. The said amount will be refunded to the petitioner.

The petitioner's counsel on instructions states that he will not claim any interest for the said amount. No costs. Consequently, connected miscellaneous petition is closed.

14.11.2022

Index : Yes / No
Internet : Yes/ No
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W.P(MD)No.2254 of 2019

G.R.SWAMINATHAN, J.

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W.P(MD)No.2254 of 2019

14.11.2022