



W.P.(MD).No.12630 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.(MD).No.12630 of 2022

and

W.M.P.(MD).No.8944 of 2022

N.Sankaran

...Petitioner

Vs

1.The District Collector,
O/o. District Collectorate,
Tirunelveli District,
Tirunelveli.

2.U.Sumathy

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent vide his proceedings ஐ.க.எண்.ஈ5/30387/2021 dated 30.04.2022 and quash the same as illegal and further directing the respondent to reinstate the petitioner in service.



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For Petitioner : Mr.N.S.Karthikeyan

For R-1 : Mr.G.Suriyananth,
Additional Government Pleader.

ORDER

By consent of both the parties, this writ petition is taken up for final disposal.

2. In connection with the delinquency alleged in the present order of punishment, whereby the petitioner herein was proceeded under Rule 17 B of Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, another delinquent, namely, I.Loyola Joseph Arokiyadass, who was the Block Development Officer, was also proceeded with. Admittedly, the incident which gave rise to the delinquency in the charge memo of the petitioner, who is the Deputy Block Development Officer, as well as the Block Development Officer, are one and the same.



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3. Incidentally, when the Block Development Officer has challenged the punishment imposed on him before this Court in W.P.(MD).No.10892 of 2022, this Court, by an order dated 17.06.2022, had set aside the punishment and remitted back the matter to the respondent therein. The operative portion of the order is extracted hereunder:

“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



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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.

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”.

4. Since the delinquency in the petitioner's case is identical to the case of the Block Development Officer in W.P.(MD).No.10892 of 2022, I am of the view that a similar order can be passed.

5. Accordingly, the impugned order of punishment, ந.க.எண்.ந5/30387/2021 dated 30.04.2022 is quashed and the matter is remitted back to the first respondent herein, who shall pass fresh orders,



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by consideration of the evidences adduced during the enquiry, as well as the objections raised by the petitioner in his further explanation dated 09.02.2022, within a period of four (4) weeks from the date of receipt of a copy of this order.

6. 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 first 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.

7. This Writ Petition stands ordered accordingly. No costs. Consequently, connected miscellaneous petition stands closed.

21.06.2022

Index: Yes/No
Speaking order/Non-speaking order
Nsr/Lm



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M.S.RAMESH,J.

Nsr/Lm

To

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O/o. District Collectorate,
Tirunelveli District,
Tirunelveli.

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