WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.12.2022**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.6410 of 2018

A.Periyasamy ... Petitioner

Vs.

1. The Secretary to Government,
 Revenue Department,
 Secretariat, Chennai – 600 009.

2. The Principal Commissioner and Commissioner of
 Revenue Administration,
 Ezhilagam, Chepauk,
 Chennai – 600 005.

3. The District Revenue Officer,
 Dindigul District,
 Dindigul.

4. The Revenue Divisional Officer,
 Palani Division,
 Palani. ... Respondents

https://www.mhc.tn.gov.in/judis

WEB COPY

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 of the first respondent i.e., the Secretary to Government, Revenue Department, Chennai relating to the impugned G.O. (1D) No. 451, Varuvai and Peridar Melanmai, Panigal Alagu (pani-7(1)) Thurai, dated 23.09.2017 confirming the orders passed by the Revenue Divisional Officer, Palani in his R.C.No.2237/2011/A3 dated 24.07.2013 and quash the same.

For Petitioner : Mr.S.Visvalingam

For Respondent : Mr.N.Muthu Vijayan
Special Government Pleader

ORDER

This writ petition is filed for a Writ of Certiorari, to quash impugned order G.O. (1D) No.451, Varuvai and Peridar Melanmai, Panigal Alagu (pani-7(1)) Thurai, dated 23.09.2017 confirming the orders passed by the Revenue Divisional Officer, Palani in his R.C.No. 2237/2011/A3 dated 24.07.2013.

https://www.mhc.tn.gov.in/judis

WEB COPY

2. The petitioner was working as Village Administrative Officer and was retired on 31.05.2011. The petitioner faced charge memo, dated 16.03.2004 and the charges are that while sending recommendation report for inclusion of the name in the voters list, the petitioner did not get the signature. The petitioner submitted an explanation, thereafter, he was imposed with the punishment of stoppage of increment for three years with cumulative effect, vide order, dated 23.01.2004 which was confirmed in the appeal order, dated 23.04.2005. The commissioner of Revenue Administration has also confirmed the order by proceedings, dated 09.03.2007. Aggrieved over the same, the present writ petition has been filed.

3. The contention of the petitioner is that the impugned order of the punishment was passed mechanically without adverting to the explanation submitted by the petitioner. The petitioner had submitted explanation that within a short time the verification report was called for i.e., on 08.12.2004 within a period of seven days i.e., before 15.12.2004. There are 29 internal villages in Kalvarpatti group. The petitioner has

https://www.mhc.tn.gov.in/judis

WEB COPY

totally submitted 126 reports recommending 36 cases for inclusion, rejecting 83 cases from inclusion, 5 cases relating to change of particulars and 2 cases relating to change of area. Since the time granted to the petitioner for submitting the report is very short and due to over burden he had committed some lapse. The respondents have conducted an enquiry and the punishment was inflicted.

4. The respondents have filed a counter affidavit stating that the petitioner has not complied the mandate given to him. Hence the action was taken against the petitioner. The reason stated by the petitioner is that he was imparted with heavy duty and hence, he was not able to carry out his mandate within a prescribed time. Since the said reasoning is not acceptable, the respondents imposed the said punishment and the same is legally sustainable and prayed to dismiss the writ petition.

5. Heard Mr.S.Visvalingam, learned Counsel appearing for the petitioner, Mr.N.Muthuvijayan, leanred Counsel appearing for the

https://www.mhc.tn.gov.in/judis

WEB COPY

respondents and perused the records.

6. The learned Counsel appearing for the respondent vehemently opposed by the stating that not submitting written report clearly amount to misconduct. The charge against the petitioner is that he had carried oral enquiry and has not conducted any proper enquiry and hence failed to submit written report. The claim of the petitioner is that the time granted is very short. The petitioner was directed to carry on the verification on 08.12.2004 and submit a report on or before 15.12.2004 i.e. within a period of seven days and hence he could not submit any enquiry report.

7. After hearing the rival submissions this Court is of the considered opinion that to constitute “misconduct” there should be some element of intention to default or with an intention to defraud the government. In the present case, due to heavy work, the petitioner cannot carry out within a stipulated time. This Court is of the considered opinion that there is no element to defraud and hence, this Court is inclined to

https://www.mhc.tn.gov.in/judis

WEB COPY

interfere with the punishment. The punishment order is set aside. The respondents are directed to implement the order and grant all the consequential benefits to the petitioner.

8. With the above said direction, this Writ Petition is allowed. No costs.

09.12.2022

Index : Yes / No
Internet : Yes / No
jbr

To
1. The Secretary to Government,
Revenue Department,
Secretariat, Chennai – 600 009.

2. The Principal Commissioner and Commissioner of
Revenue Administration,
Ezhilagam, Chepauk,
Chennai – 600 005.

3. The District Revenue Officer,
Dindigul District,
Dindigul.

4. The Revenue Divisional Officer,
Palani Division,
Palani.

https://www.mhc.tn.gov.in/judis

WEB COPY

S.SRIMATHY, J

jbr

Order made in
W.P.(MD)No.6410 of 2018

09.12.2022

https://www.mhc.tn.gov.in/judis