



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.12887 of 2014

P.Jayaraman

... Petitioner

vs.

1.The Secretary to Government,
Adi-Dravidar and Tribal Welfare Department,
Secretariat, Chennai-9.

2.The Commissioner of Adi-Dravidar Welfare,
Chepauk, Chennai-5.

... Respondents

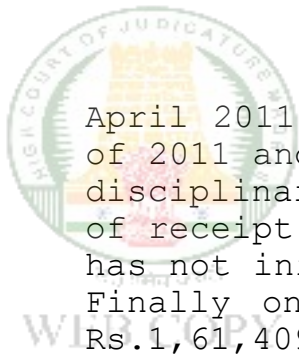
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the proceedings made in G.O.(P)No.124, Adi Dravidar and Tribal Welfare Department, dated 13.06.2014, on the file of 1st respondent, to quash the same and further, to direct the respondents herein to disburse the entire terminal benefits to the petitioner.

For Petitioner	: Mr.T.Vadivelan
For Respondents	: M/s.D.Farjana Ghoushia Special Government Pleader

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned proceedings in G.O. (P)No.124, Adi Dravidar and Tribal Welfare Department, dated 13.06.2014, on the file of 1st respondent and to direct the respondents herein to disburse the entire terminal benefits to the petitioner.

2.The brief facts of the case are that the petitioner joined as Junior Engineer in the respondent department on 26.07.2007. A charge memo was issued alleging that the petitioner has not maintained the records for a sum of Rs.8,70,048/- drawn on 31.03.2006 for the works to be completed in Karur District as Additional Charge Junior Engineer. The petitioner submitted an explanation on 18.10.2007, denying the responsibility for the charges initiated. But the Enquiry Officer was appointed on 13.03.2008 and he submitted his report on 28.04.2008. The petitioner again submitted a representation before the enquiry officer on 12.06.2008. Another Enquiry Officer was appointed and he submitted his report on 24.03.2010. Again, the petitioner submitted a representation on 11.05.2010 but no final orders were passed till



April 2011. The petitioner filed a Writ Petition in W.P.(MD)No.4574 of 2011 and this Court directed the first respondent to conclude the disciplinary proceedings within a period of four weeks from the date of receipt of a copy of the order. Thereafter, the first respondent has not initiated any steps to dispose the disciplinary proceedings. Finally on 07.09.2011, an order was passed to deduct the sum of Rs.1,61,409/- from the petitioner's terminal benefits as installments and further punishment is imposed as cut in pension to the tune of Rs.500/- for a period of two years.

3.The contention of the petitioner is that without considering the explanation, the first respondent has simply accepted the version of the Enquiry Officer and passed an order. The petitioner has filed another Writ Petition in W.P.(MD)No.11910 of 2012 and this Court, vide order, dated 12.02.2014, directed the first respondent to pass orders on the disciplinary proceedings. Thereafter, the impugned order, dated 13.06.2014, was passed.

4.The respondents have filed a counter affidavit stating that on inspection, records reveal that some works were given to one Dhanalakshmi on paper. But, the work was undertaken by someone without following Tamil Nadu Transparency in Tenders Act, 1998. The officials of the office of the District Adi Dravidar Tribal Welfare Officer, Karur, involved in misappropriation of public money by not selecting the implementing agency. Therefore, the following charges framed against the petitioner along with four others involved in misappropriation. The petitioner was holding the additional charge as Junior Engineer in the Karur and a sum of Rs.8,07,048/- was encashed. But there are no files or records maintained for the encashment. The petitioner failed to supervise the work before the encashment. Hence, the disciplinary proceedings were initiated which ended up in punishment of five officials. Since the petitioner has attained superannuation, considering the same, the punishment of recovery of Rs.1,61,409/- was imposed as punishment for recovery, in one lump sum from the death cum retirement gratuity and also a cut in pension for Rs.500/- per month for a period of two years was imposed. But the petitioner denied the allegations and but finally the punishment was imposed. Hence, the respondents prayed to dismiss the Writ Petition.

5.Heard Mr.T.Vadivelan, learned Counsel appearing for the petitioner and M/s.D.Farjana Ghoushia, learned Special Government Pleader appearing for the respondents.

6.The contention of the petitioner is that he was working in Trichy. Earlier, the petitioner was serving in the Office of Dindigul. Thereafter, the petitioner was granted additional charge in Karur on 30.03.2006 and the petitioner joined on 31.03.2006. The petitioner was working as Junior Engineer in Trichy, since 15.03.2005. The petitioner was directed to hold additional charge in Karur as Junior Engineer, Karur, vide order, dated 30.03.2006.



The order was served on the petitioner on 30.03.2006 by a special messenger and the petitioner joined the service on 31.03.2006. On 31.03.2006, during night, the Overseer from the Office came to the petitioner with a bunch of bills with a request to sign it immediately to encase the bills on 31.03.2006, which being the last date of financial year 2005-2006 or otherwise, the funds allotted by the Government of Tamil Nadu would get lapsed. Left with no other alternative and in order to avoid the fund being lapsed, the petitioner signed all the bills which was brought by the Overseer so as to facilitate encashment of bills on 31.03.2006 itself. According to the petitioner, he was not granted any time to check the bills before signing them.

7.The contention of the petitioner is that he was not granted an opportunity to scrutinize and that the punishment is on the higher side and there is no intention to defraud the respondent department.

8.The learned Special Government Pleader submitted that the contention of the petitioner cannot be accepted, since he is the in-charge Officer during that period and he is bound to scrutinize the bills. The learned Special Government Pleader appearing for the respondents prayed to dismiss the Writ Petition.

9.On perusing the entire records, it is seen that the petitioner was posted as full additional charge to the Karur unit and he is also having original charge in the Trichy unit. The petitioner took charge only on 31.03.2006 and he was not granted time to scrutinize the bills. Admittedly, the petitioner is not having any intention.

10.Since there is no intention and the petitioner is also seeing the additional charge of Karur unit, this Court is inclined to modify the punishment. The recovery imposed on the petitioner is not sustainable. Therefore, this Court is modifying the punishment as under:

a) The respondents are restrained from collecting Rs.500/- in pension for 2 years.

b) The amount recovered from the petitioner under DCRG shall be paid back to the petitioner.

c) Since the petitioner is part of the transaction without intention which amount to negligence and the respondents are directed to impose stoppage of increment for two years without cumulative effect.

d) The respondents shall pass an order modifying the punishment and other consequential orders within a period of four weeks from the date of receipt of the copy of the order.



11. With the above directions, the Writ Petition is disposed of.
No costs.

Sd/-

Assistant Registrar (CS-I)

WEB COPY

// True Copy //

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Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Secretary to Government,
Adi-Dravidar and Tribal Welfare Department,
Secretariat, Chennai-9.

2. The Commissioner of Adi-Dravidar Welfare,
Chepauk, Chennai-5.

+1 CC to M/s.SPL GP (SR-14281[F] dated 24/03/2022)

W.P. (MD) No.12887 of 2014
23.03.2022

RS (25.05.2022) 4P-4C