



W.P.(MD)No.23279 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.23279 of 2018

and

W.M.P.(MD)No.21149 of 2018

Dharmar

... Petitioner

Vs.

1.The Secretary to Government,
Revenue Department,
State of Tamil Nadu,
Secretariat, Fort Saint George,
Chennai – 9.

2.The Commissioner of Revenue Administration,
Chepauk, Chennai – 5.

3.The District Collector,
Virudhunagar District.

4. The Accountant General (A & E),
Tamil Nadu, Chennai – 18.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of ***Writ of Certiorarified Mandamus***, calling for the records relating to the order passed by the 1st respondent in his Letter No.40496/Ser 8 (1)/ 2016-4,



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dated 5.12.2017 conforming the punishment order passed by the 3rd respondent in Na.Ka.A5/19488/2007, dated 5.11.2008 and quash the same and consequent direction may be issued to direct the respondents to revise the pension accordingly and disburse the same.

For Petitioner : Mr.T.A.Ebinezer

For R-1 to R-3 : Mr.P.Thambidurai,
Government Advocate

For R-4 : Mr.P.Gunasekaran

ORDER

This Writ Petition has been filed to quash the impugned order passed by the 1st respondent in his Letter No.40496/Ser 8 (1)/ 2016-4, dated 5.12.2017, confirming the punishment order passed by the 3rd respondent in Na.Ka.A5/19488/2007, dated 5.11.2008 and sought for a consequential direction to the respondents to revise the pension.

2. Heard Mr.T.A.Ebinezer, learned Counsel appearing for the petitioner and Mr.P.Thambidurai, learned Government Advocate appearing for R-1 to R-3 and Mr.P.Gunasekaran, learned Counsel appearing for the 4th respondent. Perused the material documents available on record.



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3. The petitioner was appointed as Village Assistant on 05.11.2008.

The 3rd respondent has issued a punishment order of stoppage of increment for three years increment with cumulative effect.

4. The main charge against the petitioner is that, he had colluded with fraudulent persons and signed as witness in the power deed and caused Patta transfer to the fraudulent persons along with the Deputy Tasildar and Village Administrative Officer.

5. The contention of the petitioner is that no charge memo was issued and no domestic enquiry was conducted against the petitioner. The petitioner aggrieved over the punishment order, filed a departmental appeal before the 1st respondent. Since the same was not disposed off, the petitioner has filed a writ petition in W.P(MD)No.20407 of 2016. In the said writ petition, this Court directed the Appellate authority to dispose the appeal within a period of six weeks, from the date of receipt of the order, dated 25.10.2016. In the meantime, the petitioner has attained superannuation on 30.04.2017. The Personal Assistant



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to the District Collector passed an order, permitting the petitioner to retire from service and the disciplinary proceedings pending against the petitioner shall be continued under Rule 9 of Tamil Nadu Pension Rules in accordance with the procedure laid down in the said rules, vide order, dated 28.04.2017. The appeal was rejected on 05.12.2017. Aggrieved over the same, the instant writ petition is filed.

6. The contention of the petitioner is that when the disciplinary proceedings was pending at the stage of appeal, the respondents ought not to have allowed the petitioner to retire from service and the appeal should have been continued. The appeal deemed to be dropped since the petitioner was permitted to retire from service in terms of the Rule 9 of the Pension Rules. The further contention of the petitioner is that the co-delinquents, namely, Deputy Tasildar, Village Administrative officers have relieved from the charges. He has signed in the power of attorney deed as witness, based on the directions of the Village Administrative Officer, namely; S.Vanniappan, the said Vanniappan has filed a writ petition in W.P(MD)No.3333 of 2010. This Court, vide order, dated 03.07.2014, directing the respondents to consider the case and pass orders. The



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respondents have passed an order, reliving the said Vanniappan from the charges. The Co-delinquent/Deputy Tahildar has also filed a writ petition in W.P(MD) No.11417 of 2009. This Court, vide order dated 16.03.2011 has held the impugned order of the respondents suffers from infirmities, as pointed out earlier and the said order was set aside and allowed the writ petition. Based on the two orders, the disciplinary proceedings against the co-delinquents were dropped and they were left of the charges. Only the present writ petitioner was imposed punishment. The only allegation against the petitioner is that he has signed as witness in the Power deed. The specific claim that was raised by the petitioner is based on the direction of the Village Administrative Officer/Vanniappan and Deputy Tasildar the petitioner has signed as witness in the Power of attorney deed. When a specific plea was raised, the respondents ought to have enquired the Vanniappan and elicited the truth. The respondents have not conducted the enquiry properly.

7. Since the co-delinquents were relieved from the charges, this Court is of the considered opinion that the impugned order is liable to be quashed. Consequently, the monetary and service benefits shall be granted to the



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petitioner since the petitioner was retired from service. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of the order.

8. With the above directions, this Writ Petition is disposed off. No Costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes
KSA

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S.SRIMATHY, J

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**Order made in
W.P.(MD)No.23279 of 2018**

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