



W.P(MD)No.25263 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25263 of 2019

R.Sadagopan

... Petitioner

Vs.

The Additional Chief Secretary to Government,
Revenue & Disaster Management Department,
Service Wing, Service 2(1) Section,
Secretariat,
Chennai-600 009.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent ie., the Additional Chief Secretary, Revenue & Disaster Management Department, Chennai relating to G.O.Ms.No.309 Revenue & Disaster Management Department dated 26.08.2019 and quash the same and consequently direct the respondent ie., the Additional Chief Secretary, Revenue & Disaster Management Department, Chennai to allow the petitioner to retire peacefully and send pension proposals to the Accountant General, Chennai within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondent : Mr.AK.Manikkam
Special Government Pleader



W.P(MD)No.25263 of 2019

WEB COPY

ORDER

Heard the learned counsel on either side.

2. The writ petitioner was serving as Special Deputy Collector (Color TV Distribution Scheme) Madurai and he reached the age of superannuation on 31.05.2010. He was not allowed to retire. He was placed under suspension. That was because the vigilance case was pending against the writ petitioner. The matter was referred to Tribunal for disciplinary proceedings, Tiruchirappalli. The charges were framed against the writ petitioner on 29.05.2010. The following were the articles of charge:-

Charge-1:-

You, Thiru R.-Sadagoban, Accused Officer while working as District Manager, TASMAL, Karur District during the period from 10.08.2007 to 12.10.2008 had received a bribe of Rs.1,000/- in the first week of every month from the following TASMAL Supervisors:-

1. Thiru.P.Sampathkumar S/o.Ponnambalam, Shop No.4939, Kulithalai.
2. Thiru.Sivakumar, S/o.Azhagappan, Shop No.4941, Kadambur.
3. Thiru.Muruganandam, S/o.Vadivel, Shop No.4939, Kulithalai.
4. Thiru.Kannan S/o.Duraisamy, Shop No.5039, Mayanoor.
5. Thiru.K.Chandrasekaran, S/o.Krishnan, Shop No.5060, Thogaimalai.

Thereby, you had committed grave official misconduct and failed to maintain absolute integrity and devotion of duty and acted in a manner which is becoming of a member of Government Service and violated Rule 20(i) of the Tamil Nadu Government Servant Conduct Rules, 1973.



W.P(MD)No.25263 of 2019

Charge-2:-

You, Thiru.R.Sadagopan, Accused Officer while working as District Manager, TASMAC, Karur District had received a bribe amount of Rs.5,000/- to Rs.10,000/- from the TASMAC shop and bar supervisors by saying that they were going to be transferred and you had received Rs.10,000/- as bribe from the TASMAC Supervisors who have been suspended and after inquiry for re-instatement into service.

Thereby you had committed grave official misconduct and failed to maintain absolute integrity and devotion to duty and acted in a manner which is unbecoming of a member of Government Service and violated Rule 20(1) of the Tamil Nadu Government Servant's Conduct Rules, 1973.

The Tribunal after elaborate enquiry found the first charge to be proved and held that the second charge was not proved. After getting further explanation from the delinquent, the Government came to the conclusion that the first charge was proved and that the second charge was not proved. After getting the opinion of the Tamil Nadu Public Service Commission, by the impugned order dated 26.08.2019, the petitioner was dismissed from service. Challenging the same, the writ petition came to be filed.

3. The learned counsel appearing for the petitioner took me through the contents of the affidavit filed in support of the writ petition and contended that the impugned G.O deserves to be set aside and the petitioner allowed to retire and seek consequential and pensionary benefits.



W.P(MD)No.25263 of 2019

WEB COPY

4. Per contra, the learned Special Government Pleader appearing for the respondents submitted that the impugned order deserves to be sustained.

5. I carefully considered the rival contentions and went through the materials on record. I am of the view that this writ petition deserves to be allowed on short ground. By the impugned order, the petitioner has been imposed with capital punishment. I went through the contents of the impugned G.O. Page 1 to 8 are a mere narration of the incident of the facts. The decision of the Government is set out only in Paragraph Nos.3 & 7. They read as follows:-

3. The Government have examined the charges framed against Thiru.R.Sadagopan, District Manager, Tamil Nadu State Marketing Corporation Limited, Karur District, statement of defence of the delinquent officer, findings of the Tribunal for disciplinary proceedings and further representation of the delinquent officer with connected records and decided to hold the charge 1 as proved and charge 2 as not proved against him.

7. The Government have further examined the case, carefully and independently, along with all the connected records and held the charges as proved for the reason that the witnesses have clearly stated that Thiru.R.Sadagopan, District Manager, Tamil Nadu State Marketing Corporation Limited, Karur District had received bribe of Rs.1,000/- in the first week of every month from the TASMAL Supervisors.



W.P(MD)No.25263 of 2019

WEB COPY

6. It is not difficult to come to the conclusion that the impugned G.O is cryptic and non-speaking. The petitioner has raised very many grounds and called upon the Government not to accept the finding of the Tribunal insofar as the first charge is concerned. No where, there is any discussion of the petitioner's contentions. By a mechanical approach, the Government had expressed its concurrence with the findings of the Tribunal. When the punishment of dismissal from service is imposed, the disciplinary authority must be all the more careful. The impugned G.O has been casually passed. As rightly pointed out by the learned counsel appearing for the petitioner, the reasoning is the heartbeat and soul of any order. In this case, the reasons are totally absent.

7. Since the respondent had not exhibited any independent application of mind, I am constrained to interfere with the impugned G.O. The matter is remitted to the file of the respondent to pass order on merits and in accordance with law. The petitioner need not be given any fresh notice. Since the petitioner is aged about 73 years and the matter has been hanging fire for more than 12 years, the respondent is directed to pass final order within a period of eight weeks from the date of receipt of a copy of this order.



W.P(MD)No.25263 of 2019

G.R.SWAMINATHAN, J.

rmi

8. The Writ Petition is allowed accordingly. No costs.

13.09.2022

Index : Yes / No
Internet : Yes/ No
rmi

NOTE: Issue Order Copy on 16.09.2022

To

The Additional Chief Secretary to Government,
Revenue & Disaster Management Department,
Service Wing, Service 2(1) Section,
Secretariat,
Chennai-600 009.

W.P(MD)No.25263 of 2019



WEB COPY



W.P(MD)No.25263 of 2019

13.09.2022