



W.P.(MD)No.21305 of 2017

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2022

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.21305 of 2017

and

W.M.P.(MD)Nos.17568 & 17569 of 2017

J.Sornabai Beaulah Paripooranam

... Petitioner

Vs.

The District Collector,
Trichy District.

... 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 relating to the impugned proceedings of the respondent in Na.Ka.No.W6/31021/2001 dated 30.10.2017 and the consequential impugned proceedings of respondent in Na.Ka.A2/20795/2017 dated 31.10.2017 affixed on 01.11.2017 quash the same in so far as continuing the departmental proceedings and consequently direct the respondents to pay all the retirement benefits forthwith from the date of eligibility to pay interest from the date of eligibility till realization.



W.P.(MD)No.21305 of 2017

For Petitioner : Mr.C.Jegannathan

For Respondent : Mr.P.Thambidurai
Government Advocate

ORDER

This writ petition is filed challenging the Charge Memo with the consequential prayer to disburse the retirement benefits from the date of superannuation along with the interest.

2. The petitioner joined as Typist in the office of the District Collector on 21.03.1998. Subsequently, promoted to various posts and retired as Special Deputy Tahsildar on 31.10.2017. While she was working as Deputy Tahsildar, her name was referred to the next promotional post of Deputy Collector in the year 2015 on the basis of crucial date of 31.12.2014. There was a departmental proceeding on 26.06.2014, for which an enquiry was completed but final orders were not passed. Hence the petitioner was not considered for promotion as Deputy Collector for the year 2014-2015. The final orders were passed



W.P.(MD)No.21305 of 2017

on 10.08.2017, few weeks prior to the retirement with a penalty by fixing the scale of pay in the feeder category. The said punishment will not affect the retirement benefits as per the order of punishment imposed by the respondent on 10.08.2017. The petitioner attained superannuation on the next day i.e., 01.11.2017, the respondent has chosen to serve a copy of the impugned order by affixture at 11.30 pm. The impugned order says that the disciplinary proceedings initiated under 17(b). However, the petitioner was permitted to retire from service. The charges against the petitioner are that the petitioner has not taken appropriate action against the order passed by the Honourable Court, dated 17.08.2010 and belatedly informed the higher authorities for payment of compensation for land acquisition. Since the petitioner has belatedly informed, the Government has incurred loss by payment of interest to the acquired land.

3. On the perusal of the charges, this Court is of the considered opinion that the delinquency had happened in the year 2010 and the charge memo was issued in the year 2017. Therefore, the Charge Memo



W.P.(MD)No.21305 of 2017

is a belated one.

WEB COPY

4. The second contention that was raised by the petitioner is that in the year 2010-2015, the petitioner was not in the said post. The respondents have not initiated any action against the person who was serving in the said post for the past five years. The petitioner has initiated action in the year 2015 and subsequently, the amount was paid. Because the petitioner has initiated action belatedly, the said charge memo has been initiated, but the respondent failed to initiate action against the real person who had committed the mistake. Therefore, this Court is of the considered opinion that the disciplinary proceedings initiated against the petitioner alone without initiating disciplinary proceedings against the other officials is truncated one and the same is not sustainable in law.

5. The next contention that was raised by the petitioner is that the charge memo was issued during the night hours on the date of retirement by affixture. It is settled proposition that disciplinary proceedings cannot be initiated on the verge of retirement. Since this



W.P.(MD)No.21305 of 2017

disciplinary proceeding was initiated by issuing the charge memo on the date of retirement on 31.10.2017 that too by way of affixture at 11.30 hours, the impugned charge memo is liable to be quashed.

6. The respondents have submitted that because of the dereliction of duty, the higher official has to face contempt proceedings before the High Court and hence the proceedings were initiated against the petitioner. This contention cannot be accepted. If the respondents have genuine attitude to take action against the erring officials, then the respondents ought to have initiated action against all officials serving in the said post during the said period from 2010-2015. When action has been taken against the petitioner alone, it has shades of vindictiveness and selective action. On this ground also the petitioner is gaining.

7. For the reasons stated above the impugned charge memo is quashed. Since the petitioner has already attained superannuation, the respondents are directed to pay the terminal benefits and pensionary benefits that is applicable to the petitioner within a period of twelve (12)



W.P.(MD)No.21305 of 2017

weeks from the date of receipt of a copy of this order. With the above said direction, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

08.12.2022

Index : Yes / No
Internet : Yes / No
jbr

To

The District Collector,
Trichy District.



WEB COPY



W.P.(MD)No.21305 of 2017

S.SRIMATHY, J

jbr

Order made in
W.P.(MD)No.21305 of 2017

08.12.2022