



W.P.No.19493 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Date of Reserving Order 21.07.2023	Date of Pronouncing Order 18.08.2023
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

WP.No.19493 of 2012

N.R.Gayathri, Superintendent
No.3-B, Fernhill Apartment
No.77, Third Main Road
Kasthuri Bai Nagar
Adyar, Chennai 20.

... Petitioner

Vs.

The Director of Social Welfare
Chennai – 2.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to the order passed by the respondent herein in proceedings Na.Ka.No.310/Admn.5-3/2012 dated 23.04.2012 imposing a punishment of stoppage of increment for 3 years with cumulative effect and quash the same.

For Petitioner : Mr.R.Prem Narayan
for M/s.Ravi Shanmugam

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader



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ORDER

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The Writ Petition has been filed to call for the records pertaining to the order passed by the respondent herein in proceedings Na.Ka.No.310/Admn.5-3/2012 dated 23.04.2012 imposing a punishment of stoppage of increment for 3 years with cumulative effect and quash the same.

2.The Petitioner, who was working as Assistant in the office of the Respondent as Superintendent suffered with the punishment imposed in the impugned order. The service matrix of the Petitioner that are required to determine the issue are as follows:

S.No.	Date/Year	Event
1	1977	Petitioner appointed as Junior Assistant
2	1980	Petitioner promoted as Assistant
3	1989	Petitioner promoted as Superintendent
4	26.07.2010	Charge under Rule 17(b) of Tamil Nadu Civil Services (D & A) Rules framed against the Petitioner by the Respondent herein
5	28.04.2011	In W.P.No.11011 of 2011 filed by the Petitioner, this Court gave a direction to conclude the enquiry and pass final orders by the end of October 2011.
6	28.11.2011	In WP.No.26428 of 2011, this Court directed that final orders to be passed within two months and failing which the charge shall stand quashed following a Division Bench decision.
7	07.12.2011	Petitioner's counsel communicated the decision in



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S.No.	Date/Year	Event
		W.P.No.26428 of 2011 to the Respondent herein who had received the same on 08.12.2011.
8	26.12.2011	Enquiry Officer concluded his report holding the charge as proved.
9	30.12.2011	The Respondent herein called for the Petitioner's further explanation on the enquiry report which was served on the Petitioner on 12.01.2012.
10	17.01.2012	Petitioner had submitted her further explanation on the enquiry report without any delay on her part.
11	08.02.2012	As per the decision of this Court in W.P.No.26428 of 2011 dated 28.11.2011, Respondent should pass final orders on the enquiry report failing which the charge stands quashed.
12	23.04.2012	The Respondent herein passed the impugned order of punishment of stoppage of increment for three years with cumulative effect.

3(a).Based upon the counter affidavit the learned Additional Government Pleader would contend that the while the Petitioner was working as Superintendent at the office of the Child Development Project Officer, Poonamallee, Chennai 600056, herself had made some entries in her Service Register and also put signature of the Pay Drawing Officer (i.e.,) the Child Development Project Officer (CDPO) under whom she was working, as if the CDPO had approved the entries and thereby committed grievous criminal offence of forging the records in her custody on her favour and affixing the



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officer's signature on her own.

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3(b).Against the grievous offences she had committed, charges under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules had been framed by the Director of Social Welfare, the Respondent herein, vide charge memo No.789/Admn.2-3/2007, dated 26.07.2010. The Petitioner had already filed W.P.No.11011 of 2011 with the prayer to conclude the disciplinary proceedings pending against her and this Court by order dated 28.004.2011 had passed the following order:

“In the light of limited prayer made in this Writ Petition fact that the enquiry officer having been appointed and enquiry has already been commenced, there may not be any impediment to conclude the enquiry and pass final orders before the end of October 2011. Accordingly, Enquiry is directed to be concluded and final orders are directed to be passed before the end of October.”

Based upon the enquiry, the charges levelled against the Petitioners held to be proved and explanation was called for and subsequently final orders of punishment has been granted.

4.Heard the learned counsel for the Petitioner and the learned Additional



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Government Pleader and perused the available records.

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5.Learned counsel for the Petitioner by relying upon the judgment of the Division Bench of this Court in the case of *State of Tamil Nadu and another Vs. T.Ranganathan* reported in *2010 (3) MLJ 625* at para 23, would submit that the enquiry was not completed and final orders was not passed within stipulated time as per the order passed by this Court in WP.11011 of 2011 dated 28.04.2011, wherein a specific order has been passed to complete the enquiry and pass orders by the end of October 2021, and in the incident case final order was passed only on 23.04.2012 and hence prayed for quashing.

6.Learned Additional Government Pleader would submit that there was a fire incident at the mid night of 06.01.2012 in Directorate of social welfare Department's officer and hence there was a delay and FIR was also reigered in this regard on 16.01.2012 and thereafter, records have been reconstructed and enquiry has been completed and showcause notice was issued and final orders have been passed.



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7.From the typed set of papers, I find that by order dated 29.08.2012 in W.P.No.9836 of 2012, at the instance of the Petitioner this Court has directed the Social Welfare Department to consider the application of the Petitioner for Voluntary Retirement Scheme within a period of three weeks and as per the same, the Petitioner was relieved on Voluntary Retirement Scheme on 29.05.2014. In the case of *State of Tamil Nadu and another Vs. T.Ranganathan* reported in *2010 (3) MLJ 625*, Division Bench of this Court held that in the event of failure on the part of the official respondent in passing final orders, within the stipulated time, the disciplinary proceedings initiated in pursuance of the charge memo stands quashed. The very said decision has been relied on by this Court in W.P.26428 of 2011 dated 28.11.2011 for the very same Petitioner.

8.On the factual background, I find that the judicial order has been passed on 28.04.2011 to complete the enquiry and pass final orders by the end of October 2011. The copy of the said order has also been communicated to the Respondent. On 28.11.2011, this Court has also directed the Respondent to pass orders within a period of two months. The Enquiry Officer has concluded



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his report holding that the charges are proved, only in the month of December 2011. The enquiry was completed only in December 2011 and final report has been passed in April 2012.

9.Hence, I am of the considered view that the ratio laid down by Division Bench of this Court is squarely applicable to the present case and hence, the charges framed against the Petitioner stands quashed. Consequently the order of punishment passed by the Respondent in proceedings Na.Ka.No.310/Admn.5-3/2012 dated 23.04.2012, imposing a punishment of stoppage of increment for a period of three years with cumulative effect also stands quashed. The Respondent is directed to settle the terminal benefits and other benefits of the Petitioner in accordance with law with least delay.

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

18.08.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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RMT.TEEKAA RAMAN.J,

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To
The Director of Social Welfare
Chennai – 2.

Pre-delivery Order made in

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Dated: 18.08.2023