



W.P.No.20085 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.20085 of 2013

V.Saravanan

... Petitioner

Vs.

1. The Special Tahsildar,
Natham Settlement,
Taluk Office,
Tambaram, Chennai.
2. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.

... Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records of the respondents 1 & 2 in connection with the impugned order passed Na.Ka.No.177/A/2012, dated 15.10.2012 and Na.Ka.No.26123/2012/A2, dated 22.06.2013, respectively and quash the same.

For Petitioner : Mr.K.Venkataramani
For Respondents : Mr.V.Veluchamy, AGP



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ORDER

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The Writ Petition has been filed challenging the orders passed by the first respondent dated 15.10.2012, whereby a punishment of censure was imposed on the petitioner and the confirmation order passed by the second respondent dated 22.06.2013.

2. The petitioner's father served as a Special Revenue Inspector and after his demise, on compassionate ground the petitioner was appointed as a Junior Assistant on 08.12.1995. The petitioner's service was regularised from the date of his appointment and he successfully completed the probation. The petitioner was promoted as Assistant in the year 2005. Thereafter, he was deputed to work as Revenue Inspector in the office of Special Tahsildar, Natham Settlement, Tambaram between 03.06.2011 and 24.12.2012. From the month of April 2012, the petitioner was suffering from chickenpox as such he was unable to attend the office. The petitioner immediately intimated the same and applied for Medical Leave. Subsequently, he extended his leave by applying Earned Leave for 25 days from 24.04.2012 to 20.05.2012 by registered post to the Special Tahsildhar, Natham Tambaram. As per the advice of the Doctor, he extended his leave till 30.05.2012 and sent a leave letter once again by post on the ground that he was not fully recovered.



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3. On completion of leave, the petitioner was posted in the Taluk Office, Chengalpet by order dated 23.06.2012. While that being so, the petitioner was served with a memo dated 16.08.2012 stating that he did not report for duty even after the expiry of leave from 25.04.2012 to 30.05.2012 and called upon him to submit his explanation for the above absence.

4. On receipt of the memo, the petitioner submitted a detailed explanation on 28.09.2012 to the first respondent. On a perusal of the memo dated 16.08.2012, it reveals that the same was issued on the ground that the petitioner failed to handover charges to his successor. Though satisfactory explanation was offered, the first respondent without conducting any enquiry straightaway imposed the punishment of censure on 15.10.2012. Therefore, the petitioner filed an appeal before the second respondent, which was also dismissed confirming the order passed by the first respondent. Hence, the present Writ Petition.

5. Though this Writ Petition is pending from 2013, till today, the respondents did not choose to file counter.



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6. On a perusal of the memo dated 16.08.2012, it reveals that the petitioner was called upon to submit his explanation. Though explanation was offered, not being satisfied with the same, the first respondent himself passed the order imposing a punishment of censure.

7. Admittedly, the first respondent is not the Disciplinary Authority and he has no power to impose any such punishment on the petitioner. In fact, even as per the memo dated 16.08.2012, the petitioner was called upon to explain why he has not hand over his charge and why he may not be referred to the Secretary/Commissioner of Land Reforms to take action against him. However, no charge was framed against the petitioner and no enquiry was conducted with regard to the allegations made against the petitioner. Without any charge and conducting enquiry, straightaway punishment was imposed on the petitioner. The memo was issued after explanation and before initiating disciplinary proceedings. Therefore, the charge memo is not contemplated under Rule 17-A of the Tamil Nadu Civil Service and Disciplinary and Appeal Rules.



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8. The first respondent is neither the appointing authority nor the authority imposing punishment, in fact he was deputed to serve as Special Tahsildar, Natham Settlement for a short period under the control of Assistant Director of Survey and Settlement. Therefore, the first respondent has no jurisdiction to either initiate or impose punishment. The appointing authority in respect of the petitioner concerned is the Revenue Divisional Officer, who is also the competent to impose any punishment on the petitioner. Unfortunately, without considering the same, the second respondent mechanically confirmed the order passed by the first respondent. That apart, the alleged charge against the petitioner is that he failed to handover his charge to the successor. However, there is no negligence on the part of the petitioner in handing over the charge, since there is no charge with the petitioner when he assumed office on 03.06.2011.

9. Admittedly, the petitioner availed leave due to chickenpox, which is a contagious disease and therefore, as per Doctor's advice he extended his leave and that too after proper application for leave. Therefore, his absence was not willful and it is only due to illness. Hence, the punishment imposed on the petitioner cannot be sustained and it is liable to be quashed. Therefore, the



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order passed by the first and the second respondents are quashed. Accordingly,

the Writ Petition is allowed. No costs.

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Index : Yes / No

Speaking / Non Speaking order

pvs

To

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