



*W.P.No.9042 of 2011*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

CORAM

**THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

W.P.No.9042 of 2011

Mathialagan

... Petitioner

Vs

1.The Municipal Commissioner,  
Ramanathapuram Municipality,  
Ramanathapuram.

2.The Commissioner,  
Municipal Administration,  
Chepauk, Chennai – 5.

3.M.Kuppuswamy.

... Respondents

**PRAYER:-** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the respondents 1 & 2 in Na.Ka.No.1200/2010/C1 dated 25.08.2010 and Na.Ka.No.1365/2010/F3 dated 10.02.2011 respectively and quash the same.

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For Petitioner : Mr.K.Venkataramani  
Senior Counsel  
for Mr.M.Muthappan

For R1 : Served – No appearance  
For R2 : Mr.R.Neethi Perumal  
Government Advocate  
For R3 : Not ready in notice

### **ORDER**

This Writ Petition has been filed challenging the order of stoppage of increment for a period of 5 years with cumulative effect as having been confirmed by the 2<sup>nd</sup> respondent.

2. Heard Mr.K.Venkataramani, Senior Counsel for Mr.M.Muthappan, learned counsel for the petitioner and Mr.R.Neethi Perumal, Government Advocate for 2<sup>nd</sup> respondent.

3. Mr.KVenkataramani, learned Senior Counsel appearing for the petitioner would submit that on 17.12.2009 a charge memo was issued as against the petitioner implicating the petitioner for 10

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counts. An enquiry officer has conducted an enquiry and had submitted a report on 25.06.2011. He would submit that the entire enquiry was force and a casual perusal of the report itself would be an evidence to the same. He would submit that the petitioner was also forced to make a statement that he would not conduct himself as charged in the future. Thereafter, the disciplinary authority issued a show cause notice calling upon the petitioner to submit his explanation to which the petitioner had also submitted a detailed explanation on 10.08.2010. But, however, the disciplinary authority without considering any material facts or even referring to the detailed explanation submitted by the petitioner, had passed an order imposing a punishment of stoppage of increment for a period of 5 years without cumulative effect, against which an appeal has been filed and even the Appellate Authority fell into the same error and had not considered any of the contentions raised by the petitioner and dismissed the appeal filed by the petitioner confirming the order.

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4. Countering his arguments, Mr.Neethi Perumal, learned Government Advocate would heavily contend that the petitioner had been charged on 10 counts which were all serious in nature which had caused loss to the 1<sup>st</sup> respondent/Municipality apart from causing hardship to the general public of the Municipality. He had been given opportunities as envisaged under law and only thereafter such a punishment had been imposed. He would further submit that a punishment of only stoppage of increment for a period of 5 years had been imposed that would not affect the petitioner's service and he would heavily rely upon the statement made by the petitioner during the course of the enquiry admitting to the charges and therefore, prayed for dismissal of the Writ Petition.

5. I have considered the rival submissions of the learned counsels appearing on either side and perused the materials available on record before this Court.

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6. Firstly, on perusal of the charge memo which had been issued on 10 counts, the imputation is not even five lines. Further, the enquiry report does not at all reveal that a due enquiry has been conducted by the enquiry officer. Original order of punishment passed by the 1<sup>st</sup> respondent is also bereft of any material evidence and also does not disclose any application of mind by the 1<sup>st</sup> respondent in imposing the order of punishment. I do not wish to look into the nature of charges or other things when the records that had been produced before this Court namely the charge memo, the enquiry report and the order of punishment imposed by the 1<sup>st</sup> respondent clearly disclose that they have not been made as prescribed by the law and I am also clearly of the opinion that such proceedings is also in complete violation of principles of natural justice. Hence, I have no other view except to set aside the order of punishment imposed by the 1<sup>st</sup> respondent and as a sequel the order confirming the punishment passed by the 2<sup>nd</sup> respondent would also

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have to be set aside.

7. In view of the above, this Writ Petition is allowed and the orders impugned in this Writ Petition are set aside. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

**02.11.2023**

gba

Index : Yes/No

Speaking order : Yes/No

Neutral Citations : Yes/No

To

The Assistant Commissioner (Urban Land Tax),  
Kundrathur,  
Kancheepuram District.

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**K.KUMARESH BABU,J.**

Gba

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