



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2023

CORAM

THE HON'BLE Mr. JUSTICE **C. V. KARTHIKEYAN**

W.P.No.24491 of 2016

R. P. Sudharsanam

.. Petitioner

Vs.

1.The Principal Secretary to Government,
Public (Admn-2) Department,
Secretariat, Chennai – 9.

2.The Additional Secretary to Government,
Public (Admn-2) Department,
Secretariat, Chennai -9.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the orders in (1)G.O.(1D) No.124, Public (Admn.2) Department dated 24.03.2015 of the 2nd respondent and the order of the 1st respondent in (2) G.O.(1D) No.486, Public (Admn.2) Department dated 13.11.2015 and to quash the same and also to issue consequential directions to the respondents to sanction the withheld increments due to the petitioner on 01.04.2015 and 01.04.2016.



For Petitioner .. Mr. M. Ravi
For Respondents .. Mr. U. Bharanidharan,
Additional Government Pleader

ORDER

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking interference with the orders of both the 1st and 2nd respondents.

2. By the order dated 24.03.2015 of the 2nd respondent, it had been observed that on a charge which had been issued taking advantage of Rule 17(a) of the Tamil Nadu Civil Services (D&A) Rules, on the basis of the explanation given by the petitioner herein, it was evident that the petitioner had indulged in an argument and had also not properly entered his leaving out of the office and coming back to the office in the movement register and had also expressed regret and therefore, it was held that the charges had been proved and therefore, the 2nd respondent had moved forward to impose a punishment of postponement of increment for a period of two years without cumulative effect.



3. The petitioner had given a further explanation and this was brought to the notice of the 1st respondent. The 1st respondent had stated that the petitioner had not brought any additional evidence to hold otherwise and had proceeded to confirm the order of the 2nd respondent.

4. Questioning both these orders, the present Writ Petition has been filed.

5. The learned counsel for the petitioner stated that the impugned orders are non-speaking in nature and in this regard, he placed reliance on the letter in Letter (MS) No.1/N/2020-1 dated 06.01.2021 issued by the Chief Secretary of All Department, wherein it had been stated that normally any order passed should record reasons and there could be due application of mind while taking a particular decision.

6. The learned Additional Government Pleader appearing on behalf of the respondents, however, pointed out to the counter affidavit and the records filed along with the counter affidavit, wherein, it had been stated that the petitioner had been extremely interested in not doing proper work



and when expected to enter 200 numbers of records in a register had only recorded 99 records out of 400 received from the Health and Family Welfare Department between 20.03.2014 and 01.04.2014. It had also been stated that he had refused to attend special task assigned to him namely, sending Government Orders (Manuscript) for the year 2006 records of the Public Department to Tamil Nadu Archives. It had also been stated that the petitioner had exhibited negligence and misbehaved. By pointing out the above allegations, the learned Special Government Pleader supported the impugned orders.

7. A perusal of the records show that in the explanation given by the petitioner, he had categorically submitted himself to the authority of the respondents by expressing an apology and also regretting for the action, if they stood proved and also stating that he would never ever loose his self-control in future and would behave in manner appropriate in the office.

8. Even though there are three separate charges mentioned in the show cause notice, the 2nd respondent had only placed reliance only on two charges namely, that the petitioner had entered into an argument and that he



had not entered properly the movement register. The third one is that he regretted his action and therefore, the 2nd respondent had proceeded to impose the above mentioned punishment. The 2nd respondent who is in the position of enquiry officer cannot also be in the position of punishing authority. The 2nd respondent can only state whether the charges has been proved or not proved and thereafter, leave it to the disciplinary authority to impose necessary punishment. The 1st respondent has not examined all those facts, particularly whether punishment imposed is proportionate to the charges as stated by the 2nd respondent.

9. In view of these reasons, the orders impugned will necessarily have to be interfered with and they are set aside. Accordingly, this Writ Petition stands allowed. No costs.

17.07.2023

Index:Yes/No
Internet:Yes/No
Neutral Citation:Yes/No
Speaking order: Yes/No
smv



To
WEB COPY

- 1.The Principal Secretary to Government,
Public (Admn-2) Department,
Secretariat, Chennai – 9.

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C.V.KARTHIKEYAN,J.

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