



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2023

CORAM

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

W.P.No.32847 of 2016
and
W.P.No.40578 of 2016
and
W.M.P.No.34576 of 2016

M.Alagirisamy

.. Petitioner in both WPs

Vs.

1.The Government of Tamilnadu
Represented by the Secretary,
Revenue Department,
Secretariat, Fort St. George,
Chennai – 600 005.

2.The Principal Secretary/Commissioner,
Revenue Department,
Chepauk,
Chennai – 600 005.

3.The District Collector,
Salem District,
Salem.

.. Respondents in W.P.No.32847 of 2016

The District Collector,
Salem District,
Salem

.. Respondent in W.P.No.40578 of 2016



Prayer in W.P.No.32847 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in proceedings Nos.Na.Ka.5839/2013(A2) dated 06.09.2016, revised notification No.Pdl.No.37/2008/(A2) dated 06.09.2016 and Na.Ka.20/2016 (A7) dated 12.09.2016 on the file of the 3rd respondent and to quash the same.

Prayer in W.P.No.40578 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in proceedings No.Na.Ka.5839/2013 (A2) dated 04.11.2016 on the file of the respondent and to quash the same.

For Petitioner .. Mr.M.Ramdass, in both WPs

For Respondents .. Mr.S.Ravikumar, in both WPs

COMMON ORDER

Since the same writ petitioner has filed both the writ petitions, a common order is passed.



2.In W.P.No.32847 of 2016, the petitioner seeks certiorari with respect to the proceedings dated 06.09.2016 and further proceedings also dated 06.09.2016 and another proceedings dated 12.09.2016 issued by the 3rd respondent, District Collector Salem and to quash the same.

3.In W.P.No.40578 of 2016 the petitioner seeks a certiorari to call for the records relating to the proceedings in Na.Ka.No.5839/2013(A2) dated 04.11.2016 also passed by the respondent / District Collector Salem and to quash the same.

4.In the affidavit filed it had been stated that the petitioner had been originally appointed as Junior Assistant on 11.12.1981 and then was promoted as Assistant on 20.11.1992 and subsequently promoted as Deputy Tahsildar on 09.07.2005 and as Tashildar retrospectively with effect from the year 2008 by proceedings dated 13.03.2013 issued by the 2nd respondent, the Principal Secretary, Revenue Department, Chennai. The petitioner had also taken charge as Tahsildar and at the time of filing the writ petition was working Special Tahsildar, Flying Squad in the Office of the District Supply and Consumer Protection Officer at Collectorate Salem.



It had been further stated that when he was working as Assistant in the office of the Special Deputy Collector (Stamps) at Salem between 11.03.1998 and 30.04.1999, he had put up a note before the Special Deputy Collector (Stamp) Salem for release of documents sent by the Special Tahsildar (Stamps) at Salem, on the belief that they were genuine. Later it was also found that the entire file received from the Special Tahsildar (Stamps) at Salem, were bogus challans. Charges were framed against the petitioner herein on 18.09.2008. Thereafter, an enquiry was conducted and a punishment of stoppage of increment for three years with cumulative effect was passed on 03.09.2014. It had been stated that the petitioner had filed W.P.No.7160 of 2015 and the writ petition is pending. Another charge memo was issued on 13.12.2007 by the 1st respondent for various acts, according to the respondents, of irregularity in the office of the Additional Special Deputy Collector (Stamps) at Salem. That was however dropped by the 1st respondent in G.O.(D) No.316 dated 28.07.2010.

5.The petitioner claimed that he was eligible for promotion to the post of Tashildar in the year 2008, but in view of the proceedings, he was not so promoted, but finally promoted by proceedings dated 19.03.2013.



Thereafter, the impugned order was passed, by which the petitioner was de-promoted to the post of Deputy Tashildar by proceedings dated 06.09.2016 and a consequential order issued by the 3rd respondent District Collector Salem on 12.09.2016.

6.It is stated that in this respect, criminal proceeding were also initiated against the petitioner herein. The first proceedings was in Salem V & AC Crime No.4/AC/2004 under Sections 120B, 167, 467, 468, 471 read with 468, 477 A read with 409 IPC and Section 13(2) read with 13(1)(c) and (d) of PC Act, 1988. The second proceeding was in Salem V & AC Crime No.5/AC/2004 under Sections 120B, 167, 467, 468, 471 read with 468, 477A read with 409 IPC and Section 13(2) read with 13(1)(c) and (d) of PC Act, 1988. It had however been stated that on instructions by the learned Special Government Pleader, who received instructions from the Inspector of Police, Vigilance and Anti-Corruption, Salem, that after completion of investigation, the charges had been dropped and the FIR had also been closed by the jurisdictional Magistrate Court.



7. However, the right of the respondents to proceed departmentally against the petitioner is always reserved and always exists.

8. The only issue is therefore the issue of demotion of the petitioner from the post of Tashildar to the post of Deputy Tashildar. I am informed that, at the time of admission, there has been a stay granted. A direction is given to the respondents herein to commence the disciplinary proceedings and the petitioner should co-operate with the disciplinary proceedings. If at any stage, the petitioner does not co-operate, then necessary noting may be made in the disciplinary proceedings file, about the non-cooperation of the petitioner herein. Let that commence and let it come to a conclusion within a period of six months from the date of receipt of a copy of this order.

9. Depending on the said result, either the petitioner may be retained as Tashildar or any other order may be passed or the order demoting the petitioner from Tashildar to Deputy Tashildar may be passed. If the charges against the petitioner are found not established, then the petitioner may continue to work as Tashildar.



10. So far as W.P.No.40578 of 2016 is concerned, the petitioner had challenged the transfer orders passed. Any transfer is an incident of service and if the petitioner is not willing to so comply with such directions, then he might as well resign the work and move away and reside in the place of his liking. The respondents are at liberty to transfer the petitioner to any place as they feel is required owing to administrative exigencies.

11. In the result,

- (i) W.P.No.32847 of 2016 stands disposed of. No costs.
- (ii) W.P.No.40578 of 2016 stands dismissed. No costs.
- (iii) Consequently, connected writ miscellaneous petition is closed.

25.09.2023

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

C.V.KARTHIKEYAN,J.



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To

1. The Secretary,
Government of Tamilnadu,
Revenue Department,
Secretariat, Fort St. George,
Chennai – 600 005.
2. The Principal Secretary/Commissioner,
Revenue Department,
Chepauk,
Chennai – 600 005.
3. The District Collector,
Salem District, Salem.

W.P.Nos.32847 & 40578 of 2016

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