



W.P.No.36400 of 2016

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.36400 of 2016
and
W.M.P.No.31349 of 2016

D.Natarajan

... Petitioner

Vs.

1.State of Tamil Nadu,
Represented by
The Principal Secretary to Government,
Home (Transport-II) Department,
Secretariat, Chennai - 9.

2.The Transport Commissioner,
Chennai - 5.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the first respondent in G.O(2D).No.312, Home (Tr.II) Department dated 21.06.2010 as well as G.O(D).No.769, Home (Transport-II) Department dated 29.08.2016 and quash the same and direct the respondents to confer all the consequential benefits on the petitioner.



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For Petitioner : Mr.V.Sivalingam
for M/s.C.S.Associates

For Respondents : Mr.T.M.Rajangam
Government Advocate

ORDER

The petitioner seeks issuance of a Writ of Certiorarified Mandamus, to quash the impugned order of the first respondent in G.O(2D).No.312, Home (Tr.II) Department dated 21.06.2010 as well as G.O(D).No.769, Home (Transport-II) Department dated 29.08.2016 and consequently, direct the respondents to confer the benefits payable to the petitioner.

2. The case of the petitioner is that he was working as Superintendent with the Transport Corporation and while he was in service, he was issued with a Charge Memo on 10.09.2007 for failing to prevent unauthorized entry and engagement of two private individuals.

3. The petitioner gave his explanation and after conducting a detailed enquiry, the Enquiry Officer submitted his report, holding that the charges against the petitioner were not proved. However, the first



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respondent differing from the findings of the Enquiry Officer, issued a Show Cause Notice to the petitioner. The petitioner gave his explanation to the same and requested that the decision of the Enquiry Officer need not be differed because the Enquiry Officer was also an Officer of the Regional Transport Office. However, the Government imposed punishment of stoppage of increment for two years with cumulative effect in and by G.O(2D).No.312, Home (Tr.II) Department dated 21.06.2010.

4. The petitioner states that he was driven to shock and depression and after acquiring of relevant papers, he filed a review petition, which was rejected by the Government only on the ground of inordinate delay in and by G.O(D).No.769, Home (Transport-II) Department dated 29.08.2016.

5. The grievance of the petitioner is that the review petition was not taken up on merits especially when the suspension was highly disproportionate to the charges.

6. It is now brought to the notice of this Court that the petitioner



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has since retired from service also. No doubt, the petitioner has not made his review application/petition in time as rightly pointed out by the respondents in their counter affidavit. As per Rule 20(1) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, the review petition ought to have been filed within two months from the date of order being communicated. However, the petitioner filed a review petition after a long delay of five years and eight months and therefore, the same was rightly rejected, according to the respondents.

7. This Court has heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

8. No doubt, the petitioner had failed to apply for review before the Government within the stipulated time. At the same time, the order of the disciplinary authority warranting punishment to the petitioner does not evidence any independent application of mind or assessment of the evidence on record. Moreover in a case, where, the disciplinary authority has disagreed with the findings of the Enquiry Officer, it is even more imperative for the disciplinary authority to give reasons for such decision.



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Excepting for the following paragraph:

“3. The Government have examined the charge framed against Tr.D.Natarajan, his explanation, findings of the Inquiry Officer, reasons for deviation from the findings of the Inquiry Officer and further representation of the delinquent officer on the deviated views of the Government along with the connected records carefully and independently and held the charge as “proved”. For the proven charge, the Government have decided to impose the punishment of “stoppage of increment for a period of two years with cumulative effect”. Accordingly, the Government order that the punishment of “stoppage of increment for a period of two years with cumulative effect” be imposed on Tr.D.Natarajan, Superintendent, Office of the Regional Transport Officer, Tiruvannamalai for the proven charge. The above punishment is inclusive of the leave period spent on him and it will affect his pension.”,

the disciplinary authority has not even touched upon the merits of the claim or the charges.

9. The entire preceding paragraphs of the final order of the disciplinary authority dated 21.06.2010 merely summarises the charges,



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explanation of delinquent officer, findings of the Enquiry Officer, reasonings for deviation from the findings of the Enquiry Officer, warranting proceeding with the disciplinary action, further representation of the delinquent officer on the deviated views of the Government.

10. Considering the above, this Court is of the view that the petitioner has not been given a fair and reasonable treatment and the order of the disciplinary authority is in violation of the fundamental principles of fair play and equity. The revisional authority has merely rejected the petition for review on the ground of inordinate delay.

11. Considering all these cumulative factors, namely the Enquiry Officer finding that the charges ought to be dropped and the disciplinary authority not issuing a speaking order and the review being rejected only on the ground of inordinate delay, it would be just and proper for the revisional authority to dispose of the review filed by the petitioner on merits, without holding the delay against the petitioner.

12. The first respondent shall pass orders on the review petition



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filed by the writ petitioner, on merits, within a period of four weeks from the date of receipt of a copy of this order and if deemed necessary, the petitioner may be given an opportunity of presenting his case before the revisional authority.

13. The petitioner shall not be entitled to any interest in the event of the petitioner succeeding in the review petition, and the petitioner would be entitled only to the actual amount, which was imposed as punishment by way of stoppage of increment.

14. This Writ Petition is disposed of with the above direction. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

23.06.2023

Index : Yes / No
Internet : Yes / No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes / No

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P.B.BALAJI, J.

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To

1. The Principal Secretary,
Government of Tamil Nadu,
Home (Transport-II) Department,
Secretariat, Chennai - 9.
2. The Transport Commissioner,
Chennai - 5.

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and
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