



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2023

CORAM

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

W.P.No.37783 of 2016
and
W.M.P.No.32377 of 2016

T. Velusamy

.. Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep. Secretary to Government,
Rural Development & Panchayat Raj Department,
Fort St. George, Chennai – 600 009.
- 2.The Director of Rural Development,
Nandanam, Chennai – 600 035.
- 3.The District Collector,
Tirunelveli District, Tirunelveli.

.. 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 of the 2nd respondent and the 3rd respondent in relation to the proceedings issued in Na.Ka.No.2041/2014/G.E.2.1 dated 12.06.2014 and in Na.Ka.No.N135721/2011-1 dated 07.08.2012 and to quash the same and



issue a consequential direction to the respondents to promote the petitioner as Block Development Officer from 07.08.2001 with the petitioner's junior T. Thirunavukkarasu was promoted as Block Development Officer with service and monetary benefits.

For Petitioner .. Mr. R. Saseetharan

For Respondents .. Mr. S. Ravikumar, SGP

ORDER

The Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records of the 2nd respondent, the Director of Rural Development, Chennai and also the 3rd respondent, the District Collector, Tirunelveli District, Tirunelveli dated 12.06.2014 and 07.08.2001 respectively and quash both the proceedings and issue consequential directions to the respondents to promote the petitioner as Block Development Officer from 07.08.2001 in par with junior of the petitioner, T. Thirunavukkarasu who was promoted as Block development Officer and also grant service and monetary benefits to the petitioner herein.

2.The petitioner was originally appointed as Accountant on 19.11.1999 in the Department of Rural Development. He was then promoted



to Extension Officer. He retired on 30.09.2005 as Block Development Officer. Much earlier on 22.04.2001, he was placed under suspension, which issue is not strictly germane to be examined in this writ petition. The petitioner was reinstated in service on 30.05.2001. On 07.07.2001 a charge memo was issued against the petitioner herein. It was a charge under Rule 17(b) of CCA Rules, which invited major penalty to be imposed. Let me not enter into any further discussion, but during the enquiry, charges were held not proved. The 3rd respondent, District Collector, Tirunelveli, however, by proceedings dated 02.04.2002 imposed a punishment of reversion from the post of Deputy Block Development Officer to the post of Extension Officer for a period of one year.

3.Questioning that particular order, the petitioner filed an appeal before the 2nd respondent, the Director of Rural Development, Chennai. He simultaneously also filed O.A.No.2701 of 2022 before the Tamil Nadu Administrative Tribunal. He also waived a right to file an appeal before the Tribunal. The learned counsel for the petitioner placed reliance on such order granted by the Tamil Nadu Administrative Tribunal, but the fact was that he had already filed an appeal before the Directorate of Rural



Development. That appeal proceeded in its normal manner and an order was passed on 24.10.2002 setting aside that particular order of reversion and remanding the matter back to the 3rd respondent / District Collector, Tirunelveli.

4. The primary reason on which the 2nd respondent had passed such an order of remand was that the 3rd respondent should have put the petitioner on notice before imposing a punishment differing from the findings of the enquiry officer, who had stated that the charges had not been established. Parallely, the proceedings before the Tamil Nadu Administrative Tribunal also proceeded. Consequent to the abolition of the Tribunal, the matter was transferred to this Court in W.P.No.5746 of 2007. Final orders were passed in that particular writ petition on 21.12.2011 and on the same reason that the District Collector, Tirunelveli had not granted opportunity to the petitioner before passing an order of reversion, the order was set aside. But no further orders were granted about continuation of the enquiry proceedings, at the stage where it was interfered by the order of the disciplinary proceedings / the District Collector, imposing a punishment of reversion of the post.



5.The learned counsel now has two orders in his favour. He has an order of the 2nd respondent / the Directorate of Rural Development, Chennai, setting aside the order of reversion and there is yet another order of this Court in W.P.No. 5746 of 2007 dated 21.12.2011 also interfering with the order of reversion. The difference is that the 2nd respondent / the Directorate of Rural Development, Chennai, went a step further and remanded the matter back for fresh consideration. On remand, the 3rd respondent / the District Collector, Tirunelveli, had passed an order of punishment of stoppage of increment for a period of three months without cumulative effect. This Court on setting aside the order of reversion had not passed any such order. In effect, it has to be taken that the order of reversion had been set aside. The order therefore of stoppage of increment for a period of three months without cumulative effect becomes non-est, since it is overridden by the order of this Court under Article 226 of the Constitution of India, particularly because, the petitioner had waived his right to file an appeal and any proceedings consequent to the appeal would also be non-est.

6.This would also imply that the order of the punishment awarded second time namely, stoppage of increment for a period of three months



without cumulative effect would also necessarily have to interfered with by this Court.

7.The writ petitioner had taken the issue further and seeks notional promotion, since he had retired on attaining the age of superannuation with effect from 07.08.2001. But that would be a little too far for the petitioner to seek. That is a relief, which he should have sought before the learned Single Judge when final orders had passed in W.P.No.5746 of 2007. On that date itself, namely, 21.12.2011, the junior had been promoted. That issue was very much available for the petitioner to be raise as an issue before the learned Single Judge. Having not done so, it would not be proper on the part of this Court to re-examine the order passed by the learned Single Judge. That is not permissible. The order of reversion had been quashed. The matter ends there.

8.I would therefore, let the matter rest at that and direct that if the punishment of stoppage of increment for a period of three month without cumulative effect had been put into effect while calculating the pensionary benefits of the petitioner, the same should now been withdrawn and fresh



proceedings should be issued to the petitioner, as if no such punishment had ever been imposed on the petitioner herein. Necessary proceedings in this regard have to be passed within a period of sixteen weeks from the date of receipt of a copy of this order.

9. With the above observations, this Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

07.08.2023

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

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Fort St. George, Chennai – 600 009.
2. The Director of Rural Development,
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C.V.KARTHIKEYAN,J.

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