



W.P.No.17561 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P. No.17561 of 2023
and
WMP. No.16676 of 2023

P.Jayamurthy

...Petitioner

Vs.

1. The State of Tamil Nadu
Rep by its Principal Secretary to Government,
Revenue and Disaster Management Department,
Service Wing,
Service (10(1)) Section,
Secretariat, Fort St.George,
Chennai-600 009.
2. The Tribunal for Disciplinary Proceedings,
Rep. by the Secretary/
Disciplinary Proceedings Commissioner,
Kuralagam, Chennai-600 108.
3. The Tamil Nadu Public Service Commission,
Rep. By the Secretary,
Frazer Bridge Road,
Chennai-600 003.
4. The District Collector,
Villupuram, Villupuram District.
5. The Adi Dravidar Welfare Officer,
Adi Dravidar Welfare Department,
Villupuram, Villupuram District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the



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respondent to consider the representation of the petitioner dated 01.07.2022 and to implement the order dated 13.08.2021 passed by this Court in WP No.15149 of 2018 within a time limit prescribed by this Court.

For Petitioner : Mr.M.Elumalai

For Respondents : Mr.S.Prabhakaran
Nos.1, 2, 4 & 5 Government Advocate

For Respondent-3 : Mr.I.Abrar Md.Abdullah

ORDER

Heard Mr.M.Elumalai, learned counsel for the petitioner, Mr.S.Prabhakaran, learned Government Advocate for the respondents 1, 2, 4 and 5 as well as Mr.I.Abrar Md.Abdullah, learned counsel for the third respondent.

2. The petitioner herein along with four others were levelled with certain charges of possessing unaccounted money in the inspection conducted by the Inspection Cell of Vigilance and Anti-Corruption Wing of Villupuram. Based on the levelled charges, an enquiry was conducted. The Enquiry Officer in his report had observed that the petitioner was counting the money alone and that the petitioner had neither received nor gave the bribe amount. Tamil Nadu Public Service Commissioner while rendering its view on the Enquiry Officer's report had also recommended to the Disciplinary



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Authority for imposing a minor punishment. However, the Disciplinary Authority had chosen to impose a major punishment of compulsory retirement through the impugned G.O.(2D)No.31, Revenue and Disaster Management Department, dated 29.01.2018.

3. The petitioner had challenged the order of punishment before this Court in W.P.No.15149 of 2018 and this Court by order dated 22.03.2021 found that the impugned order of punishment was a non-speaking order and that the petitioner was not provided with a copy of the Tamil Nadu Public Service Commission's Report. On this ground, the punishment of compulsory retirement was set aside and the matter was remanded back to the respondents fixing time limit of eight weeks to pass fresh orders. The relevant portions of the order are as follows:-

"7. In the present case, the impugned order passed is apparently a non-speaking order, that too without furnishing a copy of the Tamil Nadu Public Service Commission's Report. Hence, in the light of the decisions cited supra, this Court is inclined to set aside the impugned order.

8. Accordingly, the impugned order dated 29.01.2018 is set aside. The matter is remanded back to the respondents for fresh consideration and for passing appropriate



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orders, after following due process of law. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order."

4. The copy of the order was made ready on 30.04.2021 and as such the eight weeks period prescribed by this Court would approximately end on 30.06.2021. In the meantime, the petitioner had made several representations dated 16.06.2021, 13.08.2021 and 09.12.2021, seeking for assigning duties to him. There was no response to the petitioner's representations till 06.06.2022. When there was a communication from the first respondent herein through his letter dated 06.06.2022 furnishing a copy of Tamil Nadu Public Service Commission's report and seeking for petitioner's reply, on 01.07.2022, the petitioner had given his reply to the Government which has also been duly received by them and acknowledgment card has been produced before this Court.

5. The respondents have not filed any counter affidavit till date.

6. This Court is not in appreciation of the manner in which the Government has dealt with the case of the petitioner. Initially when the Enquiry Officer's Report had stated that the petitioner was not found guilty of having given or received bribe and Tamil Nadu Public



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Service Commissioner had subsequently recommended for imposing lesser punishment, the Disciplinary Authority had chosen to impose major punishment of compulsory retirement. The order of punishment was a non-speaking order and a copy of the Tamil Nadu Public Service Commission's Report has not been provided to the petitioner. In this background, this Court had quashed the punishment and fixed time limit of eight weeks for passing final orders.

7. As stated above, eight weeks period had ended in the month of May 2021. The further action has been initiated by the first respondent only on 06.06.2022 which is after more than a year which is in total violation of the time limit stipulated by this Court. The Hon'ble Division Bench of this Court in the case of ***State of Tamil Nadu, Personnel and Administrative Reforms Department, Chennai and Another vs. T.Ranganathan (W.A.Nos.1478 of 2008 and 266 of 2009 dated 05.03.2010)*** has held that, when the time limit prescribed by this Court is not adhered to, all consequential actions would necessarily be rendered as illegal. The relevant portion of the order reads as follows:-

" We are conscious of the fact that if the is non-cooperation of the delinquent officer to comply with the time limit fixed by the



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Court/Tribunal to complete the enquiry and pass final orders in disciplinary proceedings, the Department cannot be blamed. In such contingency it is for the Department to point out the non-cooperation on the part of the delinquent officer in finalising the proceeding and the hardships faced by the Department in not strictly adhering to the time schedule due to the fault of the delinquent officer or for any valid reason and get appropriate orders seeking extension of time. At this juncture, it is relevant to point out that even if the time granted originally to complete the enquiry is over, nothing prevented the Department from filing an appropriate application after expiry of the time. It is now well settled in law that application seeking extension of time can be filed and the Court are having inherent powers to grant further time, even though the original time granted got expired, based on the principles of invoking the inherent powers to meet the ends of justice. In this case, there is no whisper about the non-cooperation of the petitioner in conducting the enquiry and completing the enquiry within the time. Hence the Department is bound to comply with the directions issued by the Tribunal in O.A.No.1535 of 2003.”



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8. In the instant case, the petitioner had been continuously approaching the respondents through various representations seeking for reinstatement in view of their inaction in assigning him duties, before and even after expiry of eight weeks prescribed by this Court and no action has been taken on the petitioner's representations also. It is rather unfortunate that the petitioner has been made to unnecessarily wait for the respondents to comply with the directions of this Court which could have caused serious prejudice to him.

9. This is not an isolated case on the part of the Government in failing to adhere to the time limits stipulated by this Court to comply with certain directions. This Court is being flooded with contempt petitions consistently, mostly on the ground that the directions are not complied within the stipulated time. It is also a routine affair on the part of the Government to comply with directions whenever a contempt notice is issued or contempt proceedings are initiated. The sanctity of the orders of the High Court has been impaired quite often when such time bound orders are violated. The respondents also do not often seek for extension of the time limit before this Court and take things for granted and sit over orders which requires



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compliance as in the present case. By applying the ratio laid down by the Hon'ble Division Bench of this Court as stated supra, I am of the view that the moment the time limits stipulated by this Court had expired on 30.06.2021, the entire disciplinary proceedings thereafter would stand vitiated. In this background, though the petitioner has sought for issuance of a Writ of Mandamus to consider his representations for implementation of the orders of this Court dated 22.03.2021 passed in W.P.No.15149 of 2018, this Court deem it fit to invoke the powers vested in it under Article 226 of the Constitution of India and accordingly, mould the relief into one of issuance of a Writ of Certariori for the purpose of quashing the disciplinary proceedings, which already stands vitiated.

10. In the light of the above observations and findings, the entire disciplinary proceedings initiated against the petitioner in case No.1 of 2011 dated 23.01.2014, on the file of the second respondent herein is quashed. Consequently, the first respondent herein shall pass appropriate orders, assigning duties to the petitioner and by extending continuity of service and all other attendant and monetary benefits, within a period of two weeks from the date of receipt of a copy of this order. However, the petitioner will not be entitled for arrears of salary for the period of his non-



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employment.

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11. The Writ Petition is ordered accordingly. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

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Index:Yes

Speaking order

Neutral Citation : Yes

DP/sr

Note :Issue order copy on 04.07.2023

To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Revenue and Disaster Management Department,
Service Wing, Service (10(1))Section,
Secretariat, Fort St.George,
Chennai-600 009.
2. The Secretary/Disciplinary Proceedings Commissioner,
The Tribunal for Disciplinary Proceedings,
Kuralagam, Chennai-600 108.
3. The Secretary,
The Tamil Nadu Public Service Commission,
Frazer Bridge Road,
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4. The District Collector,
Villupuram, Villupuram District.



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5. The Adi Dravidar Welfare Officer,
Adi Dravidar Welfare Department,
Villupuram, Villupuram District.



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M.S.RAMESH,J.

DP/Sr

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