



WEB COPY



WP.No.22161 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

WP.No.22161 of 2023
and W.M.P.No.21556 of 2023

S.Vijayalakshmi

.. Petitioner

Versus

1.The Secretary to Government
Personnel and Administrative Reforms(Q)Department
Secretariat, Chennai – 600 009

2.The Joint Secretary to Government
Health and Family Welfare Department
Secretariat, Chennai – 600 009

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned letter issued by the 1st respondent in Letter No.29054/2008-72, P&AR Department dated 05.02.2018 and quash the same and consequently direct the 1st respondent to exonerate the petitioner of all charges framed against the petitioner in view of the 2nd respondent inquiry representation dated 17.08.2017 and to permit the petitioner to retire from service w.e.f. 30.10.2012 and to settle all the arrears and service benefits to the petitioner with due seniority.

For Petitioner : Mr.R.Srinivas, Senior Counsel
for M/s.Mythili Srinivas
For Respondents : Mr.M.Alagu Goutham
Government Advocate

ORDER

This writ petition has been filed challenging the letter issued by the 1st

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respondent in Letter No.29054/2008-72, P&AR Department dated 05.02.2018,

quash the same and consequently direct the 1st respondent to exonerate the petitioner of all charges framed against the petitioner in view of the 2nd respondent inquiry representation dated 17.08.2017 and to permit the petitioner to retire from service w.e.f. 30.10.2012 and to settle all the arrears and service benefits to the petitioner with due seniority.

2.The writ petition proceeded in domestic enquiry for the charges as against the petitioner is as follows:

"

Annexure-I

Statement of allegations namely imputation of misconduct or misbehavior in support of the charges framed against Selvi S. Vijayalakshmi, Assistant Section Officer, Home (P&E) Department, Secretariat, Chennai-9 (now Under Suspension).

CHARGE-I

Selvi Selvi S.Vijayalakshmi, Assistant Section Officer, Home (P&E) Department, Secretariat, Chennai-9 (now Under Suspension) while serving as Board of Director of Tamil Nadu Secretariat Staff Co-Operative Housing Society along with the President, Vice-President and the other Board of Directors of the Society had prepared an incorrect seniority list of members in Tamil Nadu Secretariat Staff Co-Operative Housing Society without obtaining the actual date of entry into the secretariat service for the members from the concerned Departments of Tamil Nadu Secretariat.

CHARGE-II

Selvi S.Vijayalakshmi, Assistant Section Officer, Home (P&E) Department, Secretariat, Chennai - 9 (now Under

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Suspension) while serving as Board of Director of Tamil Nadu Secretariat Staff Co-Operative Housing Society along with the President, Vice-President and the other Board of Directors of the Society had allotted Residential Plots to the Junior members instead of senior members without any valid reasons in Tamil Nadu Secretariat Staff Co-Operative Housing Society.

CHARGE-III

Selvi S. Vijayalakshmi, Assistant Section Officer, Home (P&E) Department, Secretariat, Chennai - 9 (now Under Suspension) while serving as Board of Director of Tamil Nadu Secretariat Staff Co-Operative Housing Society along with the President, Vice-President and the other Board of Directors of the Society had not adhered to the reservations for Scheduled Caste and Scheduled Tribes and Ex-Service man while allotting Residential Plots to members in Tamil Nadu Secretariat Staff Co-operative Housing Society as per by-law no.46(1) of the said society. They had also violated the by-law that the allotment of sites among the members shall be by draw of lots. It is also not followed in these allotments.

CHARGE-IV

Selvi S.Vijayalakshmi, Assistant Section Officer, Home (P&E) Department, Secretariat, Chennai-9 (now Under Suspension) while serving as Board of Director of Tamil Nadu Secretariat Staff Co-Operative Housing Society along with the President, Vice-President and the other Board of Directors of the Society had not maintained a correct seniority register for the members for the allotment of per by law No.46(1) residential plots in Tamil Nadu Secretariat Staff Co-Operative Housing as per by law No.46(1).

CHARGE-V

Selvi S. Vijayalakshmi, Assistant Section Officer, Home (P&E) Department, Secretariat, Chennai-9 (now Under Suspension) while serving as Board of Director of Tamil Nadu Secretariat Staff Co-Operative Housing Society along with the President, Vice-President and the other Board of Directors of the Society had not collected the cost of plot in one lumpsum from the members who



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had been allotted residential plots in Tamil Nadu Secretariat Staff Co-Operative Housing Society as per by-law No. 47(1).

CHARGE-VI

Selvi S.Vijayalakshmi, Assistant Section Officer, Home (P&E) Department Secretariat, Chennai-9(now Under Suspension) while serving as Board of Director of Tamil Nadu Secretariat Staff Co-Operative Housing Society along with the President, Vice-President and the other Board of Directors of the Society had allotted residential plots to the members of Tamil Nadu Secretariat Staff Co Operative Housing Society. When the allotted plot was cancelled or re-allotted to the other members, resolution must be passed and necessary entries to be made in the minute book. Whereas, in these allotments, the Plots have been re-alloted to members without passing any resolution in the minutes book as well as without any intimation of cancellation to the original allottees.

CHARGE-VII

Selvi S.Vijayalakshmi, Assistant Section Officer, Home (P&E) Department Secretariat, Chennai-9(now Under Suspension) while serving as Board of Director of Tamil Nadu Secretariat Staff Co-Operative Housing Society along with the President, Vice-President and the other Board of Directors of the Society had allotted two residential plots to one Selvi S.Vasanthakumari (M.No.579) and Tr.S.Anthony Placit (M.No.1053) who were owning Flat / House at the time of allotment as against the condition laid down in G.O.Ms.No. 121 Revenue Ni M1(1) Department dated 09.03.1999.

CHARGE-VIII

Selvi S.Vijayalakshmi, Assistant Section Officer, Home (P&E) Department Secretariat, Chennai-9 (now Under Suspension) while serving as Board of Director of Tamil Nadu Secretariat Staff Co-Operative Housing Society along with the President, Vice-President and the other Board of Directors of the Society had remitted the total land cost of Rs.2,29,20,266/- in 7 installments between 19.01.2001 to 07.08.2007 instead of remitting the total land cost as a single payment to the Government. In this regard the



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Collector, Kanchipuram had instructed that the society had remitted the land cost in installments without obtaining any order to do so. Hence 12% of compound interest was worked out Rs. 2,36,71,687/- as on 2010 as per letter no. RC 4127/07/01/dated 02.09.2009 and Letter RC No. F2/24439/10 dated 12.12.2011 with related records and thereby caused a huge monetary loss to the society.

CHARGE IX

Selvi S.Vijayalakshmi, Assistant Section Officer, Home (P&E) Department, Secretariat, Chennai-9(now Under Suspension) while serving as Board of Director of Tamil Nadu Secretariat Staff Co-Operative Housing Society along with the President, Vice-President and the other Board of Directors of the Society had allotted 608 residential plots to the members in Tamil Nadu Secretariat Staff Co-Operative Housing Society. The members in Category I, who are supposed to be allotted 2000 sq. ft and above were allotted below 2000 sq. ft. (supposed to be allotted for category-II). In category -II, the members who are supposed to be allotted 1600 sq. ft. to 2000 sq. ft. were allotted above 2000 sq. ft. and below 1600 sq.ft. In category - III, the members who are supposed to be allotted 1200 sq. ft. to 1600 sq. ft. were allotted above 1600 sq. ft which are supposed to be allotted for category - II and thereby they have allotted plots as against the resolution dated 09.08.2001 in minutes book-I, page No. 41 of the said society.

CHARGE-X

Selvi S.Vijayalakshmi, Assistant Section Officer, Home (P&E) Department, Secretariat, Chennai-9(now Under Suspension) while she was serving as Board of Director in Tamil Nadu Secretariat Staff Co-Operative Housing Society between 23.09.1999 and 18.03.2004, by indulging in the above said irregularities(Charges- I to IX) and acting in the aforesaid manner, had failed to maintain absolute integrity and devotion to duty as Public Servant under rule 20 of Tamil Nadu Government Servants Conduct Rules 1973."

2. The enquiry officer have been appointed and he has given a report

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holding that the charges have not been proved. However, now, the impugned communication has sent by the disciplinary authority calling for further representation from the petitioner. The grievances of the writ petitioner is that in the communication, the disciplinary authority has concluded that the charges are proved. Therefore, the same cannot sustained in the eye of law.

3. On perusal of the communication and the Annexure which have not been originally brought to the notice of this Court, this Court finds that the disciplinary authority has given reasons for disagreement in the Annexure, thereafter, this notice came to be issued. Therefore, merely, holding that the charges are proved that cannot be a ground to hold that the disciplinary authority has already concluded that charges are proved. On perusal of the entire Annexure, reasons recorded for disagreeing the enquiry officer, thereafter, the impugned show cause notice is issued.

4. Such view of the matter, let the disciplinary authority consider the representation of the petitioner and provide one opportunity to the petitioner and pass final orders on its own merits. At this stage, the learned Senior Counsel appearing for the petitioner submitted that the petitioner may make an additional representation to the respondents. Hence, the petitioner is permitted



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to make such additional representation which shall also be considered by the disciplinary authority.

5. Accordingly, this writ petition stands disposed of. Consequently, connected miscellaneous petition is closed. No costs.

27.07.2023

dhk

Internet: Yes/No

Neutral Citation: Yes/No

To

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