



WP.No.25486 & 25334 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

WP.No.25486 & 24334 of 2023
and W.M.P.Nos.23780, 23781 & 24879 of 2023

A.M.Sivashankar

.. Petitioner in W.P.No.25486 of 2023

S.Kasiramkumar

.. Petitioner in W.P.No.24334 of 2023

Versus

1.The Chairman

Tamilnadu Public Service Commission
TNPSC Road, Broadway, Chennai – 03

2.The Secretary

Tamilnadu Public Service Commission
TNPSC Road, Broadway, Chennai – 03

3.The Enquiry Officer/Joint Secretary

Tamilnadu Public Service Commission
TNPSC Road, Broadway, Chennai – 03

.. Respondents in W.P.No.25486 of 2023

1.The Secretary

Tamilnadu Public Service Commission
TNPSC Road, Broadway, Chennai – 03

2.The Joint Secretary

(The Enquiry Officer-TNPSC Proceedings
No.142/PD-B2/2022)

Tamilnadu Public Service Commission
Chennai – 600 003

.. Respondents in W.P.No.24334 of 2023



WP.No.25486 & 25334 of 2023

Prayer in W.P.No.25486 of 2023: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in connection with the impugned order passed by him in Memorandum No.142/PD-B2/2022 dated 28.07.2023 and to quash the same and further direct the respondents herein to conduct a fresh enquiry after furnishing the documents required by the petitioner and to provide a reasonable opportunity of cross examination of witnesses.

Prayer in W.P.No.24334 of 2023: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Tamil Nadu Public Service Commission Memorandum No.142/PD-B2/2022 dated 28.07.2023, quash the same and direct the respondents herein to conduct a fresh enquiry after considering my defence statement and after according me with a fair opportunity to cross examine the witnesses relied on by the prosecution.

For Petitioners : Mr.S.Sivakumar
in W.P.No.25486 of 2023

Mr.Muthcharan Sundresh
in W.P.No.24334 of 2023

For Respondents : Mr.P.Baladhandayutham in both cases
Special Government Pleader

COMMON ORDER

1a. W.P.No.25486 of 2023 is filed challenging the order passed by the second respondent in Memorandum No.142/PD-B2/2022 dated 28.07.2023 and to quash the same and further direct the respondents herein to conduct a fresh enquiry after furnishing the documents required by the petitioner and to provide a reasonable opportunity of cross examination of witnesses.



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1b. W.P.No.24334 of 2023 is filed challenging the order passed by the Tamil Nadu Public Service Commission Memorandum No.142/PD-B2/2022 dated 28.07.2023, quash the same and direct the respondents herein to conduct a fresh enquiry after considering his defence statement and after according me with a fair opportunity to cross examine the witnesses relied on by the prosecution.

2. Even during the Admission stage, considering the nature of enquiry, this Court has informed the learned counsel for the respondents, who was present and took notice that the matters will be remanded back for fresh consideration. At that time, the learned counsel for the respondents sought time for getting instructions and also for filing counter. Therefore, this Court granted two weeks time for filing counter. When the matters were posted today, some other counsel stating that he is representing on behalf of the counsel for respondents seeks time, which would indicate that the respondents are trying to drag on the cases. Since, no counter is filed, this Court is inclined to dispose of these writ petitions.

3. These writ petitions are filed challenging the enquiry report dated 28.07.2023. It is relevant to note that normally, this Court will not interfere



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with the enquiry report, if the enquiry is properly done after giving proper opportunity to the respondents or delinquent.

4. The case of the petitioners are that they have been placed under suspension based on the criminal case registered against them in Cr.No.273 of 2017 for the offences under Sections 420, 465, 468, 471, 170, 408, 380, 109 read with 34 IPC and 7(a) & 8 of Prevention of Corruption Act, 1988. The charges against the petitioner is that they have involved in malpractices in examinations conducted by the TNPSC. The petitioners were placed under suspension on 27.11.2017 & 26.04.2018 and it is also relevant to note that the writ petition in W.P.No.20753 of 2023 is filed by Mr.A.M.Sivashankar seeking for revocation of suspension and reinstate in service. When the above matter came up before this Court, it is submitted by the learned counsel for the respondents the disciplinary proceedings have been commenced. Such view of the matter, this Court directed the respondents to complete the disciplinary proceedings within a period of six months from the date of receipt of a copy of that order. This Order has been passed on 14.07.2023 and now enquiry report is filed as if enquiry has been completed on 28.06.2023 and during the enquiry, it is recorded that the delinquents have attended the enquiry on 02.09.2022 & 13.06.2023 respectively.



5. Thereafter, they requested the enquiry officer to permit the cross examination of witnesses. However, no opportunity has been given and enquiry report has been filed as if all the charges have been proved. There is no materials whatsoever placed how the enquiry officer has come to the conclusion that the charges are proved or the materials he relied upon to hold such a conclusion. This itself clearly shows that there is clear violation of the principles of natural justice. When the person is fastened with serious charges, there must be proper opportunity to defend the charges, which has not been given. Such view of the matter, this Court is of the view that the enquiry report is one sided and accordingly, the same stands quashed.

6. The respondents are directed to appoint some other officer as enquiry officer and conduct a *de novo* enquiry after giving proper opportunity to both the writ petitioners and take action on the basis of enquiry report. The enquiry shall be completed within a period of six months from the date of receipt of a copy of this Order. It is also made clear that what are the documents relied upon by the department and put against the petitioners, copies of those documents shall be served to the petitioners in a departmental proceedings.



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N.SATHISH KUMAR, J.

7. In view of the above, these writ petitions are disposed of.
Consequently, connected miscellaneous petitions are closed. No costs.

12.09.2023

dhk

Internet : Yes/No

Index : Yes/No

Neutral Citation: Yes/No

To,

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