



W.P.(MD).No.5985 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.5985 of 2020

and

W.M.P(MD) Nos.5183 and 5184 of 2020

B.Esakki Muthukumar

... Petitioner

Vs.

1. The Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai.

2. The District Collector,
Madurai District.

3. The District Revenue Officer,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the third respondent in his proceedings in Na.Ka.No.42391/2014/PA2, dated 31.03.2016 and the consequential order passed by the first respondent in his proceedings in Se.Mu.A.No.Pani 4(3)/34875/2016, dated 24.12.2019 and quash the same and direct the respondents to promote the petitioner as a Deputy Tahsildar as per



W.P.(MD).No.5985 of 2020

seniority from the date on which his Juniors were given promotion with all consequential benefits.

For Petitioner : Mr.V.Panneer Selvam
For Respondents : Mr.T.Villavan Kothai
Additional Government Pleader

ORDER

The present writ petition has been filed by a Revenue Assistant challenging the order passed by the third respondent herein imposing a punishment of stoppage of increment for a period of six months without cumulative effect, which was confirmed by the first respondent herein.

2. According to the learned counsel appearing for the writ petitioner, a complaint was lodged in the name of Women Self Help Group as against two officials alleging financial mismanagement. The authorities suspected that the petitioner alone had sent the said complaint and proceeded to issue a Charge Memo. Pending charge memo, the words in Mahalir Suya Uthavi Kuzhu was directed to be compared with the file noting of the writ petitioner and they were referred to the Deputy Director, Regional Forensic Laboratory, Madurai.



W.P.(MD).No.5985 of 2020

The Forensic Officer has given a report that the word Mahalir Suya Uthavi Kuzhu found in the complaint completely tallies with the handwriting of the writ petitioner in his file noting. Solely based upon the said forensic report, an order of punishment came to be imposed by the third respondent which was confirmed by the first respondent.

3. According to the learned counsel appearing for the writ petitioner, the Women Self Help Group has not been examined and solely based upon the Forensic report, order of punishment cannot be imposed. He further contended that the comparison could be made only between the admitted signature and the disputed signature. However, it is not known which signature was sent for comparison to be compared with the wordings Mahalir Suya Uthavi Kuzhu found in the anonymous complaint. Hence, he prayed to set aside the punishment imposed upon him and to allow the writ petition.

4. Per contra, the learned Additional Government Pleader appearing for the respondents pointed out that the complaint has been lodged to the first respondent herein and a copy of the said complaint was forwarded to the third respondent herein, who, in turn, has referred the matter to the Forensic



W.P.(MD).No.5985 of 2020

WEB COPY

Department for comparison. Therefore, the procedure adopted by the third respondent cannot be found fault with. The petitioner has sent the said complaint in the name of Women Self Help Group and hence, it is a clear case of misconduct on his part. Therefore, the Charge Memo and the punishment imposed based upon the said Charge Memo may be sustained.

5. I have carefully considered the submissions made by the learned counsel on either side and perused the material on records.

6. The primary allegation as against the writ petitioner is that he is said to have sent the complaint in the name of Women Self Help Group to the first respondent herein in an undated complaint alleging financial irregularities as against the Personal Assistant to the District Collector and the Deputy Tahsildar. It is the presumption of the authorities that the petitioner alone would have sent the said complaint. The said complaint has been addressed only to the first respondent herein. From the office of the first respondent a Xerox copy of the said complaint has been forwarded to the third respondent for conducting an enquiry. Instead of conducting an enquiry on the allegation made against the two officials referred to in the complaint, the third



W.P.(MD).No.5985 of 2020

respondent has chosen to issue a charge memo to the writ petitioner on the allegation that the petitioner was responsible for sending the complaint under an anonymous name.

7. The third respondent had referred the said Xerox copy of the complaint to the Regional Forensic Office at Madurai. Along with the said complaint, the minute notes of the petitioner herein containing his handwriting have also been sent to the Forensic Department for comparison. After comparison, the Forensic Department had arrived at a finding that both of them tallied. Based upon this finding arrived at by the Forensic Department, the punishment of stoppage of increment has been imposed upon the writ petitioner. Therefore, it is clear that instead of original, only a Xerox copy has been forwarded to the Regional Forensic Office. That apart, it is settled position of law, that the disputed handwriting could be compared only with the admitted handwriting. Without the knowledge of the writ petitioner, the handwriting found in the alleged file notings have been forwarded by the third respondent herein to the Regional Forensic Office. Therefore, it is very difficult to arrive at a finding whether there is an admitted handwriting of the writ petitioner herein at all.



W.P.(MD).No.5985 of 2020

WEB COPY

8. In view of the above said facts, this Court is of the opinion that the authorities, instead of conducting enquiry as against the allegations found in the complaint, have chosen to target the writ petitioner on the presumption that he has sent the said complaint under an anonymous name.

9. In view of the above said facts, the order impugned in the writ petition is hereby set aside. This Writ Petition stands allowed. It is needless to point out that the petitioner will be entitled to all consequential benefits in view of quashing of the punishment order. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

20.12.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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W.P.(MD).No.5985 of 2020

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W.P.(MD).No.5985 of 2020

R.VIJAYAKUMAR,J.

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W.P(MD)No.5985 of 2020

20.12.2023