



W.P.(MD)No.12397 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.12397 of 2020

and

W.M.P(MD)No.10602 of 2020

R.Illayaraja

... Petitioner

Vs.

1.The Principal Secretary/Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable
Endowments Department,
Myladuthurai,
Nagappatinam District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records of the impugned order of the 1st respondent in Se.Mu.Na.Ka.No.18518/2020-1/B. 3, dated 20.07.2020 and quash the same as illegal.



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For Petitioner : Mr.M.Kannan
For Respondents : Mr.R.Ragavendran
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order passed by the first respondent, dated 20.07.2020 and to quash the same.

2. The case of the petitioner is that he was worked as Assistant Commissioner in Tamil Nadu Hindu Religious and Charitable Endowments Department, Kumbakonam, Thanjavur District. While he was in service, one Mr.T.Narsingh, Junior Assistant misappropriated a sum of Rs.5,71,089/-, for which the first respondent issued a charge memo against the petitioner under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, on the ground that the petitioner has failed to supervise the lower officials. Subsequently, the first respondent has imposed the punishment of stoppage of increment without cumulative effect for two years. Challenging the same, the present writ petition has been filed.



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3. The learned counsel appearing for the petitioner would submit that admittedly there is no allegation against the petitioner and alleged allegation only the Junior Assistant viz., T.Narsingh has allegedly misappropriated a sum of Rs.5,71,089/-. However, the higher officials fixing the responsibility against the petitioner as if he has failed to supervise the lower officials and passed the impugned order as against him, which is not sustainable one. Hence, he prayed for allowing this writ petition.

4. The learned Government Advocate appearing for the respondents would submit that as against the order passed by the original authority, there is an effective appeal remedy in terms of Rule 19 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, before the appellate authority and without exhausting the appeal remedy available, the petitioner has filed the present writ petition.

5. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.



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6. Considering the above facts, this Court is of the view that against the order passed by the original authority, there is an effective alternative remedy before the appellate authority in terms of Rule 19 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and without exhausting the appeal remedy, the petitioner has filed the present writ petition. Hence, this Court grants liberty to the petitioner to file an appeal before the appellate authority, within a period of four weeks from the date of receipt of a copy of this order and if such appeal is filed, the appellate authority is directed to pass appropriate orders, as expeditiously as possible.

7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

05.01.2023

NCC :Yes/No
Index : Yes / No
Speaking Order : Yes / No

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M.DHANDAPANI,J.

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