



W.P(MD)No.14893 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14893 of 2020

and

W.M.P.(MD)Nos.12533 of 2020 & 2714 of 2023

Shanmugasundari

... Petitioner

Vs.

1.The Secretary to Government,
Social Welfare and Noon-Meal Project Department,
Fort St.George,
Chennai-9.

2.The Commissioner,
Social Welfare Commission,
Panagal Building, 2nd Floor,
Sydapet, Chennai-15.

3.The District Project Officer,
Integrated Child Development Scheme,
Virudhunagar District,
Virudhunagar.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the first respondent in his proceedings in G.O.(S)No.74, Social Welfare and Noon-Meal



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Project (SNI) Department, dated 09.07.2020 and quash the same as illegal, arbitrary, violation of law.

For Petitioner : Mr.K.P.Narayanakumar

For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2. The writ petitioner was employed as a Child Development Project Officer. She was issued with a charge memo dated 19.07.2018. It comprised five charges. The petitioner offered her explanation. Enquiry was conducted. The enquiry officer submitted his report dated 15.03.2019 holding that the first two charges have not been proved. The Government issued notice calling upon the petitioner to offer her further representation. Finally, the impugned G.O.(S)No.74, Social Welfare and Noon-Meal Project (SNI) Department, dated 09.07.2020 came to be passed imposing the punishment of stoppage of increment for a period of three years with cumulative effect. Challenging the same, this writ petition came to be filed.



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3. Even though very many contentions were urged, the petitioner's counsel submitted that he would be satisfied, if the matter is remitted to the file of the first respondent. This is because, the enquiry report dated 15.03.2019 was never served on the petitioner. It is a fundamental principle of service jurisprudence that before imposing penalty, the delinquent employee must be put on notice. This would include several aspects. One of them is that the enquiry report on which the disciplinary authority proposes to rely should be served on the delinquent. In this case, the copy of the enquiry report dated 15.03.2019 was never served on the petitioner. There has been a clear violation of the principles of natural justice.

4. In this view of the matter, the order impugned in the writ petition is set aside. The matter is remitted to the file of the first respondent. The first respondent shall forthwith serve a copy of the enquiry report dated 15.03.2019 on the petitioner. Even while serving the enquiry report, the petitioner can be called upon to offer her further representation. After considering the same, an order afresh on merits and in accordance with law will be passed by the first respondent.



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5. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Internet : Yes/ No

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