



W.P.(MD).No.6122 of 2012

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.6122 of 2012
and
M.P.(MD).No.1 of 2014**

S.Ravi

... Petitioner

Vs.

1.The State Government of Tamil Nadu,
Represented by its Principal Secretary to Government,
Home (Tr.II-A) Department,
Fort St.George,
Chennai – 9.

2.The Principal Secretary
and Transport Commissioner,
Chepauk, Chennai – 5.

3.The Commissioner,
Disciplinary Proceedings Tribunal,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records made in G.O.(D)No.1148, Home (Tr.II-A) Department dated 24.11.2011, which confirming the order passed by the second respondent made in Proc.R.No.1916/VA2/2009 dated 25.08.2009 and to quash the same and direct the respondents to reinstate the petitioner in service with all consequential service benefits.



W.P.(MD).No.6122 of 2012

For Petitioner : Mr.V.Panneer Selvam,
For Mr.K.R.Radhakrishnan

For Respondents : Mr.P.Thambidurai,
Government Advocate.

ORDER

This Writ Petition is filed to quash G.O. (D) No.1148, Home (TR.II-A) Department dated 24.11.2011, which is confirming the order passed by the second respondent made in Proc.R.No.1916/VA2/2009 dated 25.08.2009 and direct the respondents to reinstate the petitioner in service with all consequential service benefits.

2. The petitioner was selected as Motor Vehicle Inspector Grade-II through Tamil Nadu Public Service Commission and joined the duty on 10.11.1980. Thereafter, promoted to various post and has served for 29 years. The contention of the petitioner is that one Sankarasubbu, S/o.Natarajan preferred a complaint to the Inspector of Police, Vigilance and Anti-Corruption, Madurai on 19.11.1997, as if the petitioner has demanded Rs.5000/- as illegal gratification for issuing duplicate registration certificate book. Thereafter, the petitioner faced disciplinary proceedings as well as the criminal proceedings in Crime No.4 of 1997. The disciplinary proceedings were conducted as T.D.P.No.



W.P.(MD).No.6122 of 2012

5 of 2000 and after the enquiry, the petitioner was imposed with the impugned punishment of dismissal from service.

3. The contention of the petitioner is that the petitioner has already faced another disciplinary proceeding dated 05.10.2007 and already dismissed from service in the said disciplinary proceedings. Once the petitioner is already dismissed from service in another disciplinary proceedings, the respondents ought not to have dismissed the petitioner again in the present disciplinary proceedings, for which the petitioner is relying on G.O.Ms.No.338 P & AR (Personnel N) Department dated 09.04.1984. Since the respondents have not considered the petitioner's case as per the aforesaid Government Order, the petitioner is contending the second dismissal from service is *non est in law*. Therefore, the petitioner is challenging the present dismissal service in the present Writ Petition. However, the earlier dismissal order was put to challenge in another Writ Petition in W.P.(MD)No.41699 of 2006 and 34889 of 2007 and this Court vide order dated 01.04.2014 has set aside the said dismissal order. Aggrieved over the same, the respondents have preferred Writ Appeal in W.A.No.318 and 320 of 2021 which is pending before the Principal Bench.



W.P.(MD).No.6122 of 2012

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4. Therefore, this Court is inclined to remit this case to the first respondent to reconsider the entire issue in the light of G.O.Ms.No.338 dated 09.04.1984. Until reconsideration, the impugned dismissal order is kept in abeyance. The respondents shall reconsider the entire issue after giving personal opportunity to the petitioner and pass an order in the light of aforesaid Government Order.

5. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

24.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



W.P.(MD).No.6122 of 2012

To

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W.P.(MD).No.6122 of 2012

S.SRIMATHY, J.

Nsr

W.P.(MD).No.6122 of 2012

24.02.2023