



W.P.No.40650 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.40650 of 2015

and

M.P.Nos.1 & 2 of 2015

S.Arumugam,

... Petitioner

Vs.

1.The State of Tamilnadu,
Rep. by its Secretary
to Government, Revenue Department,
Fort St. George, Chennai-9.

2.The Assistant Director i/c,
District Land Survey Office,
Namakkal.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, Calling for the records relating to the Impugned Order passed by the 2nd Respondent herein in Na.Ka. A3/4587/2012 dated 18.09.2015, quash the same.



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For Petitioner : M/s.S.Doraisamy for Mr.V.Elangovan

For Respondents :
(for R1 & R2) : M/s.Alagu Goutham, Govt. Advocate

ORDER

The above writ petition has been filed to quash the order passed by the 2nd respondent in Na.Ka.A3/4587/2012 dated 18.09.2015 in and by which the petitioner has been awarded a punishment of stoppage of increment for 6 months without cumulative effect.

2. The facts leading to the above punishment are as follows:-

2.1. The petitioner was working as a Land Surveyor in Tiruchengode. He was issued with a charge memo under Rule 17(b) of the Tamilnadu Civil Service (Discipline and Appeal) Rules in Na.Ka.No.A8/4587/12 dated 21.09.2012. The allegation contained in the charge memo was that the petitioner had effected subdivision without boundaries, in respect of T.S.No.11 Block 2, Ward F of



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Trichengode Town, without enquiring the joint pattadars and without considering the 'A' Register.

2.2. The petitioner would submit that he had filed a detailed explanation denying the charges levelled against him. Not satisfied with the explanation, the Inspector attached to the 2nd respondent was appointed as an enquiry officer. The enquiry officer found that out of the 9 charges, 5 charges were proved and exonerated the petitioner from other 4 charges. This enquiry report was forwarded to the petitioner seeking his further explanation which was also explained too. The petitioner had submitted that if there was a mistake in his report, the higher authorities could have returned the same and asked for clarification.

2.3. Further, it is the contention of the petitioner that he was not afforded a personal enquiry no opportunity to examine the witnesses was given to him. The petitioner would submit that despite receiving his explanation and without considering the same, the 2nd respondent



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had issued the punishment of stoppage of increment for 6 months without cumulative effect. Against this order, an appeal would lie before the Regional Deputy Director, Coimbatore (Appellate Authority). He had also submitted that the present Appellate Authority was the same person who had issued the charge memo in 2012 and therefore he could not act as an Appellate Authority as he would be biased. For these reasons, the petitioner sought to quash the impugned order.

3. The 2nd respondent had filed a counter for and on behalf of the 1st respondent as well. It is the case of the respondents that the petitioner who was a Field Surveyor had effected the sub-divisions in respect of the lands in T.S.No.11 Block 2 Ward F of Trichengode Town. He had however not made any enquiry with the joint Pattadars in respect of the said lands. He had effected this sub-division without boundaries stating that they were agricultural lands. Since a complaint was received, a joint inspection was made by the RDO, Trichengode and the Assistant Direction of Survey and Land Records and they



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found that a wrong subdivision has been made and therefore action was initiated against the petitioner under Rule 17(b) of the Tamilnadu Civil Service (Discipline and Appeal) Rules. The petitioner was served with the charge memo dated 21.09.2012. His explanation was received and he was given an opportunity to offer further explanation and ultimately the disciplinary authority had passed the impugned order.

4. The respondents would submit that the petitioner has abdicated his responsibility as a Surveyor and acted in the manner deceiving the officials with incorrect particulars.

5. The respondents would submit that the land in question does not have definite ridges on the ground and therefore, the measurement of the same and the sub-divisions effected by him appears to be, in the language of the respondents "fishy". Therefore, the action initiated against the petitioner is correct and in keeping with the rules and procedures.



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6. The learned counsel for the the petitioner had made his submission only on two grounds :-

i. That the award of punishment was disproportionate to the offence.

ii. The second explantion has not been taken into account.

7. The task of the petitioner is to survey the lands and before the survey, he is bound to issue notice to the parties. In the instant case, the allegation against him is that the joint pattadars had not been served and the same has not been refuted effectively by the petitioner. That apart, the measurements have been done without even demarcating the lands. It is also stated that the petitioner had made entries in the revenue records which is not within his jurisdiction. Therefore, the award of punishment of stoppage of increment for 6 months without cumulative effect is commensurate with the charges proved.



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8. The second point which has been urged is that the second explanation of the petitioner has not been considered by the 2nd respondent while imposing the punishment. A reading of the the impugned order passed by the 2nd respondent would clearly show that the original explanation to the show cause notice as well as the further explanation has been taken note of, considered and rejected. Therefore, the only two grounds on which the petitioner has come before this Court fails and consequently the Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

26.07.2024

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

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