



W.P. No.8499 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P. No.8499 of 2015

and

W.M.P. No.17488 of 2016

M.Pandian

Deputy Block Development Officer (ADW)

Thurinjapuram Panchayat Union,

Tiruvannamalai District.

.. Petitioner

Versus

1. The Government of Tamil Nadu

Rep. by its Principal Secretary,

Rural Development & Panchayat Raj (E1) Department,

Fort St. George, Chennai 600 009.

2. The Director of Rural Development

& Panchayat Raj Department,

Panagal Building, Saidapet,

Chennai 600 015.

3. The District Collector (PD Section)

Tiruvannamalai District,

Tiruvannamalai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records pertaining to the order bearing Roc.No.2785/2013/V.C1-1 dated 24.10.2014 of the second respondent herein and quash the same.



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For Petitioner : Ms.T. Hemalatha
for Mr.V.Suthakar

For Respondents : Mr.Abishek Murthy
Government Advocate

ORDER

The writ petition has been filed challenging the order of punishment dated 24.10.2014 passed by the second respondent, on the ground of being a non-speaking order.

2. The petitioner was working as Deputy Block Development Officer, Adi-Dravida Welfare, Thuringapuram Block, Tiruvannamalai District. During the course of such employment, he was issued with a charge memo on 27.05.2008 by the third respondent containing as many as 30 charges. All the charges related to the work carried out and/or expenditure incurred for conducting the Kodai Vizha, (summer festival) at Javadumalai Block on 30.06.2007 and 01.07.2007. In other words, the specific charge is that without floating tender and entrusting the work to the highest bidder in the tender, works have been independently entrusted to persons of their choice by the Commissioner (Administration) and Extension Officer as well as the petitioner herein.



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WEB COPY 3. On receipt of the charge memo, the petitioner submitted his explanation denying the charges. It is submitted by the petitioner that he is only a second level officer and he had carried out the instruction/ work as directed by the Commissioner. It is also stated that he has no right or authority to call for the tenders and is only obliged to carry out his superior namely the Commissioner's instruction. The petitioner also submitted that since there wasn't sufficient time for calling for tenders to carry out the preparatory works for the festival, the Commissioner instructed him to proceed to carry out the work through private parties and that ratification for the expenses could be obtained later. The petitioner thus prayed for exonerating him from all the charges.

4. Not satisfied with the explanation offered by the petitioner, an Enquiry officer was appointed and the petitioner participated in the enquiry. After conclusion of the enquiry, the enquiry officer submitted his report dated 29.01.2009 holding that Charge Nos. 1, 4, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 23, 25, 26, 27, 28, 29, 30 were proved and charges 2, 3, 5, 6, 7, 10, 20, 22, 24 were not proved. On receipt of the enquiry officer's report, a second show cause notice dated 28.02.2014 was issued by the second



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respondent/ disciplinary authority. On receipt of the second show cause, the petitioner submitted his explanation in detail on 29.04.2014. It is submitted by the petitioner that the second respondent, without considering the explanation offered by him, the 2nd Respondent passed the impugned order dated 24.10.2014 imposing the punishment of stoppage of increment for a period of two years without cumulative effect.

5. The present writ petition is filed challenging the order dated 24.10.2014.

6. The learned counsel for the petitioner submitted that the order dated 24.10.2014 passed by the second respondent is laconic, bereft of any reasons and it has to be construed as one passed without application of mind. The learned counsel for the petitioner further submitted that even though the order dated 24.10.2014 runs to several pages, there is no reason adduced for imposing the punishment. The disciplinary authority merely re-produced the 30 charges, explanation of the petitioner thereof and the conclusion reached by the enquiry officer. Ultimately, the second respondent simply stated that the charges have been proved and imposed the punishment of stoppage of increment.



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7. The learned counsel for the Respondents would submit that the second respondent has examined the charges, nature of delinquency committed and the report of the enquiry officer before imposing the punishment. The disciplinary authority is not expected to individually examine each and every charge levelled against the petitioner. The enquiry was conducted in which the petitioner participated and the enquiry was conducted in a manner known to law, the order passed by the second respondent cannot be assailed by the petitioner. The learned Government Advocate therefore prayed for dismissal of the writ petition.

8. The learned counsel for the Respondents would submit that an alternate remedy by way of statutory appeal is available and thus the present writ petition ought not to be entertained as it requires examination of questions of fact.

9. I find there is merit in the submission of the learned counsel for the Respondents that examination of questions of fact is normally outside the purview of judicial review under Article 226 of the Constitution of India when there is an efficacious alternate remedy by way of appeal.



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WEB COPY10. In view thereof, the writ petition stands disposed of granting liberty to the petitioner file an appeal within a period of 4 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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To:

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MOHAMMED SHAFFIQ, J.

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