



WEB COPY



W.P.No.17589 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.17589 of 2022

R.Vadivazhagi

...Petitioner

-Vs-

1.The Additional Chief Secretary to Government
Finance (T & A) Department
Fort St. George, Chennai – 600 009.

2.The Director-cum-Mission Director,
Integrated Child Development Scheme
Taramani, Chennai – 600 113.

3.The Inquiry Officer-cum-Pay and Accounts Officer
Pay and Accounts Office (East)
Egmore, Chennai – 600 008.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 2nd respondent to revoke the suspension order was passed on 22.08.2016 by the 2nd respondent vide proceedings No.8990/E(1)(2)/2016.



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For petitioner : Ms.G.Uma Maheswari
For respondents : Mrs.R.L.Karthika
Government Advocate

ORDER

This writ petition has been filed challenging the order of suspension dated 22.08.2016 passed by the 2nd respondent.

2. The petitioner had joined as Typist in Social Welfare Department and further she was promoted as Assistant. Thereafter, she was promoted as Superintendent and further promoted as Child Development Project Officer. At this juncture, the respondent conducted Audit in her office and found that the petitioner along with other delinquents had misappropriated to the tune of Rs.1,85,99,112/-. In pursuant to the same, the Vigilance and Anti-Corruption department registered FIR in Cr.No.02/AC/206/CC-IV. In pursuant to the registration of said FIR, the petitioner was placed under suspension from 22.08.2016. Already the petitioner challenged the order of suspension in W.P.No.9483 of 2019. This Court by an order dated 10.04.2019 directed the petitioner to submit



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necessary certificates along with required documents claiming subsistence allowance as applicable under the Government Rules. On receipt of the same, the respondents are directed to pay the subsistence allowance to the petitioner. Further, directed the petitioner to co-operate for enquiry. If the petitioner failed to co-operate for enquiry, the respondents are at liberty to proceed with enquiry in the manner known to law.

3. The learned counsel for the petitioner submitted that though the respondents paid subsistence allowance for some period of time. Subsequently, she was not paid any subsistence allowance. So far No final order has been passed in the disciplinary proceedings.

4. On perusal of the counter affidavit filed by the 2nd respondent revealed that the first respondent had initiated disciplinary proceedings as against the petitioner and other delinquents under 17(b) of the Tamilnadu Civil Services (Discipline & Appeal) Rules and subsequently the petitioner was served with charge memo. On receipt of the explanation from the petitioner, enquiry officer was appointed to conduct enquiry. Out of 26



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delinquents the enquiry officer completed enquiry as against the 24 delinquents. However, the petitioner and another delinquent failed to appear before the enquiry. In fact, enquiry officer submitted his enquiry report on 30.07.2019 in respect of 24 delinquents. Though, the petitioner was served with enquiry notice but she was failed to appear before the enquiry officer. Therefore, exparte decision has been taken by the enquiry officer and submit the enquiry report to the Government. Thereafter, the petitioner also served with show cause notice along with enquiry report. On receipt of the same, the petitioner submitted her explanation dated 11.11.2022 and it is pending for final orders. Further, it is also revealed that the petitioner and other delinquent had misappropriated to tune of Rs.4,15,00,000/- and the entire misappropriation had been done with the connivance of the petitioner. That apart, the petitioner failed to produce the said documents in order to claim subsistence allowance. Further, as per the instructions already issued in Government Letter dated 23.07.2015 to the effect that the time limit of three months of suspension cases specified therein are applicable only to the suspension cases arising out of departmental disciplinary enquiries pertaining to non-vigilance and/or any non-criminal cases in view of the



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admitted fact that the gravity of the vigilance/criminal cases alarmingly more than that of the seriousness of the Non-Vigilance/Non-criminal cases in which allegations of corruption is not dealt with.

5. Therefore, this Court finds no infirmity or illegality in the order passed by the 2nd respondent dated 22.08.2016. The criminal case is also still pending. However, the respondents are directed to pass final orders in the disciplinary proceedings within a period of 12 weeks from the date of receipt of copy of this order. Hence, this Writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. No Costs.

14.03.2024

Index : Yes/No
Speaking/Non-Speaking Order
Neutral Citation : Yes/No
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G.K.ILANTHIRAIYAN,J.
gvn

To

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