



W.A.No.183 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.01.2024

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.A.No.183 of 2024
and
C.M.P.No.1063 of 2024

1.The Principal Secretary to
Government of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Fort St.George, Chennai – 600 009.

2.The Commissioner of Municipal
Administration,
Chepauk, Chennai.

.. Appellants

Vs.

R.Karthikeyan,
S/o.V.Raghavan,
No.39, Marapalayam Street,
No.1, KAS Nagar, Kasilangapalayam
Erode – 3.

.. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent, against the
order dated 27.07.2022 passed by the learned Judge in W.P.No.2910 of
2018.



W.A.No.183 of 2024

For Appellants : Mr.S.Silambannan
Additional Advocate General
assisted by Mr.Yashwanth
Additional Government Pleader

For Respondent : Mr.V.Vijay Shankar

JUDGMENT

[Judgment of the Court was delivered by R.MAHADEVAN, J.]

This writ appeal is filed by the State against the order passed by the learned Judge in W.P.No.2910 of 2018 on 27.07.2022.

2.The facts of the case are that while the respondent herein was working as Assistant in Gobichettipalayam Municipality, during the period between 01.07.1999 and 30.06.2003, as a public servant he was in possession of assets disproportionate to his known sources of income. Due to the same, disciplinary proceedings was initiated against him and was concluded by the Tribunal on finding that if the assets of the respondent alone, without taking into account the assets standing in the name of his family, are taken into consideration during the check period, there are no disproportionate assets to the known source of income of the respondent.



W.A.No.183 of 2024

But, if the assets standing in the name of the respondent and his wife are taken into account, it would be Rs.5,01,729/- which was 56% of the combined income of the family and hence, it would be disproportionate income to the known source of income of the respondent. Hence, charges were framed and the respondent was imposed with a maximum punishment of removal from service. The appeal filed by the respondent before the Government, also ended in passing an order in G.O.Ms.No.428 Municipal Administration and Water Supply Department dated 26.07.2017, confirming the punishment. Aggrieved by the same, the respondent preferred a writ petition in W.P.No.2910 of 2018.

3.Taking note of the fact that the wife of the respondent is also a working person as a teacher and she was getting regular salary for several years and the further fact that the orders passed by the authorities are cryptic in nature without discussing the matter in detail, the learned Judge passed the order impugned herein, holding that if at all any doubt had arisen in the mind of the Enquiry Officer, they could have verified the source of the amounts which were credited in the name of the respondent's wife and that,



W.A.No.183 of 2024

without verifying these aspects, findings have been rendered as if the charges have been proved. While so, the learned Judge set aside the orders impugned in the writ petition and remitted the matter to the disciplinary authority and further directed that the respondent and his wife shall make an additional defence statement to give defence as to how the source of income was available to them to acquire the properties both movable and immovable during the check period. Challenging the order so passed in the writ petition, this appeal has been preferred by the State.

4.Amongst many grounds raised in the appeal, the learned Additional Advocate General appearing for the appellants submitted that the learned Judge has erred in remitting the matter to the disciplinary authority, instead of the Government, to pass appropriate orders. He further submitted that the learned Judge has erred in directing the authorities to conduct fresh enquiry not only for evidence of the respondent but also his wife. Stating so, the learned Additional Advocate General prayed for setting aside the impugned order.



W.A.No.183 of 2024

WEB COPY

5. On the other hand, the learned counsel for the respondent submitted that the learned Judge has dealt with the case in proper perspective and has passed the order impugned herein and hence, the same does not require any interference in the hands of this Court.

6. Heard both sides and perused the records carefully.

7. It is not in dispute that the orders passed by the authorities which were under challenge in the writ petition, are cryptic in nature without discussing the issue in detail. It is also seen that the final order dated 22.03.2017 passed by the Commissioner of Municipal Administration, Chennai, is only a recording or reproduction of the Enquiry Officer's report and the defence statement given by the delinquent officer. The only charge against the respondent is that there was disproportionate income or asset acquired by the respondent during the relevant check period. It is the main contention of the learned Additional Advocate General appearing for the appellants that the learned Judge has erred in ordering fresh enquiry to be



W.A.No.183 of 2024

conducted not only for the evidence of the respondent, but also his wife and it is for the appellate authority to pass appropriate orders on merits.

8.Taking note of the submissions made by the counsel on either side and also considering the entire facts and circumstances of the case, while agreeing with the observation made by the learned Judge that the respondent has not been given sufficient opportunity and the disciplinary authority has not considered the matter in proper perspective, this court is of the view that the disciplinary authority shall provide sufficient opportunity to the respondent for making additional defence statement and thereafter, pass appropriate orders, on merits and in accordance with law, upon considering the additional defence statement, if any, submitted by the respondent. To that effect, the order of the learned Judge is modified. It is made clear that the disciplinary authority shall pass orders, without being influenced by any of the observations made by the learned Judge in the order impugned herein as well as in this judgment.



W.A.No.183 of 2024

9. With the aforesaid modification and directions, this writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]
22.01.2024

Index: Yes / No
Speaking order/ Non-speaking order
Neutral Citation: Yes / No
nsd

To

1. The Principal Secretary to
Government of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai – 600 009.

2. The Commissioner of Municipal
Administration,
Chepauk, Chennai.



WEB COPY



W.A.No.183 of 2024

R.MAHADEVAN, J.
AND
MOHAMMED SHAFFIQ, J.

nsd

W.A.No.183 of 2024

22.01.2024