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CMP No.26436 of 2024
in
WA No.2959 of 2024

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D.KRISHNAKUMAR, J.
and
P.B.BALAJI, J.

This application is filed to recall the order dated 14.10.2024 passed by this Court in W.A.No.2959 of 2024.

2. The relevant portion of the order dated 14.10.2024 passed by this Court reads as follows:

"3. Despite this Court passed an order on 03.10.2024, directing the respondent Department to file an affidavit before this Court to explain as to why further proceedings have not been initiated by the respondent Department, the respondent department has not shown any interest for giving written instructions to the Government Pleader for placing before this Court.

4. Further, the Government has passed G.O.(Ms) No.81, Human Resources Management (N) Department dated 04.08.2022, wherein the Government has fixed time limit for finalizing the disciplinary proceedings from each and every stage. In the said Government Order, guidelines have also been framed by the Government. In the present case, the appellants have been placed under



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suspension on 30.04.2024. Despite time limit has been fixed in the aforesaid G.O., even after a lapse of more than 6 months, there is no further progress for initiating the departmental enquiry.

5. In such circumstances, we direct the Chief Secretary to Government to take necessary action as against the disciplinary authority concerned for non compliance of the Government Order in G.O.(Ms) No.81, Human Resources Management (N) Department dated 04.08.2022 and file a detailed report before this Court on the next date of hearing. This Court suo motu impleads the Chief Secretary to Government, Government of Tamil Nadu, Secretariat, Fort St.George, Chennai-9, as a party in the present writ appeal"

3. Learned Additional Advocate General submits that this recall application is filed to explain the reasons, which caused delay in concluding the proceedings as per the Government Order in G.O.(Ms.)No. 81, Human Resources Management (N) Department, dated 04.08.2022.

4. In the affidavit filed, along with the Recall Application, following reasons have been given:

6. I humbly submit that the petitioners herein had to verify various documents pertaining to this case in order to file an affidavit as directed by this Hon'ble Court, since huge sum of Rs.66,03,967/- was found to be misappropriated



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by the 1st respondent/appellant which came to light at various stages on the investigation. The Directorate of Vigilance and Anti-Corruption which is a specialized agency handling corruption in their report has stated that the appellant has merely misappropriated a sum of Rs.3,25,000/-. Whereas, Thiur.G.Amuthan, Superintending Engineer (AE) (Special Schemes) has conducted a detailed field inspection and analysed all the records and uncovered that the misappropriation was to the tune of Rs.63,90,967/- after working on the same for over a year. Subsequently, when the charges were being framed, it was found that an additional amount of Rs.2,13,000/- was also misappropriated which brought the total misappropriation amount to Rs.66,03,967/-. The Enquiry Officer during his investigation has investigated around 418 beneficiaries, 25 dealers and verified D.C.Bills, requested details from Treasury, Accountant General's Office and the bills and accounts inter alia and eventually the factual report runs into 688 pages which resulted in 164 pages charge memo.

7. I submit that the petitioners had to meticulously review all the records pertaining to the case of the 1st respondent/appellant in order to file a detailed affidavit before this Hon'ble Court and have been diligently working on the same since the date of the order. Moreover, the petitioners herein were in the process of issuance of the final charge memo to the 1st respondent/appellant and the same was also issued on the 1st respondent/appellant on 15.10.2024 and received by the 1st respondent/appellant on 24.10.2024.

8. I humbly further submit this Respondent,



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as a Head of Department was looking after Budget works, Kalaignar Centenary Park construction at the Mount Road, Chennai and monitoring of scheme works inter-alia of the department, scheme works inspection in districts which resulted in delay in filing of the affidavit as directed by this Hon'ble Court in order dated 03.10.2024 and the same is neither willful nor wanton. This Respondent also tenders unconditional apology before this Hon'ble Court for non-filing of the affidavit within the time stipulated by this Hon'ble Court."

5. Learned Additional Advocate General submits that in view of the aforesaid explanation submitted by the petitioner, he seeks to recall the order passed by this Court.

6. Since at the time of passing the earlier order, the respondents have not placed all the materials before this Court, this Court has passed the order to conduct the enquiry. Today, the petitioner has given reasons and he has also tendered apology. This Court also expects the authority concerned to strictly comply with the Government Order in G.O.Ms.No.81 dated 04.08.2022. Since the petitioner has given bona fide reasons, the said direction passed by this Court is recalled. *The application is ordered.*



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7. Post the matter for final hearing next week.

(D.K.K., J.) (P.B.B., J.)

20.11.2024

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