BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.15446, 4430 & 16167 of 2024
and
W.M.P.(MD).Nos.13524 to 13526 of 2024, 4256 to 4258
& 14058 to 14060 of 2024

S.Vincent Jeyanthi ... Petitioner in all the petitions

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Revenue and Disaster Management Department,
Services Wing Ser 4(1) Section,
Secretariat,
St.George Fort,
Chennai.

2.The Principal Secretary
/ Commissioner of Revenue Administration,
Chepauk,
Chennai.

3.The District Collector,
Tirunelveli District,
Tirunelveli.

4.The District Revenue Officer,
Tirunelveli,
Tirunelveli District. ... Respondents in all the Writ Petitions

5.S.Singaram ... Respondents in W.P.(MD).Nos.15446 and 4430 of 2024

PRAYER in W.P.(MD).No.15446 of 2024: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the third respondent vide his proceedings in Na.Ka.COLTNV/05/2024-A6, dated 08.03.2024 and quash the same as illegal insofar as the non-inclusion of the petitioner's name is concerned and consequently to direct the respondents to promote the petitioner to the post of Deputy Tahsildar on par with other juniors along with all other monetary and service benefits within the time stipulated by this Court.

PRAYER in W.P.(MD).No.4430 of 2024: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the third respondent vide his proceedings in Letter No.36309/Pani-4(1)/2020-14, dated 26.07.2023 and consequential petitioner's junior by the third respondent vide his proceedings in Na.Ka.COLTNV/05/2024-A6, dated 19.02.2024 and quash the same as illegal insofar as the non-inclusion of the petitioner's name is concerned and consequently to direct the respondents to promote the petitioner to the post of Deputy Tahsildar on par with other juniors along with all other monetary and service benefits within the time stipulated by this Court.

PRAYER in W.P.(MD).No.16167 of 2024: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the fourth respondent vide his proceedings in Na.Ka.COLTNV/216-2023-A5, dated 24.02.2023 and quash the same as illegal insofar as the non-inclusion of the petitioner's name is concerned and consequently to direct the respondents to confer the selection grade of the petitioner on completion of ten years of service in the cadre of Senior Revenue Inspector within the time stipulated by this Court.

For Petitioners	: Mr.H.Mohamed Imran, for M/s.Ajmal Associates (In All Writ Petitions)
For R-1 to R-4	: Mr.J.Ashok, Additional Government Pleader (In all Writ Petitions)
For R-5	: Mr.J.Ashok, Additional Government Pleader (In W.P.(MD).Nos.15446 and 4430 of 2024)

COMMON ORDER

Heard Mr.H.Mohamed Imran, learned counsel appearing for the petitioners and Mr.J.Ashok, learned Additional Government Pleader appearing for the respondents.

2. The petitioner has filed these Writ Petitions seeking to quash the impugned charge memos and the impugned promotion panel insofar as the petitioner is concerned and consequently, to direct the respondents to promote the petitioner to the post of Deputy Tahsildar on par with other juniors along with all other monetary and service benefits and further direct the respondents to confer the selection grade of the petitioner on completion of ten years of service in the cadre of Senior Revenue Inspector.

3. Mr.H.Mohamed Imran, learned counsel appearing for the petitioner submitted that earlier, the petitioner has been given with the very same charges, for which, she was subjected to disciplinary proceedings and the enquiry officer gave the finding that the charges have been proved and she has also been given with the punishment on 28.06.2020. Now, it is contended that the very same charges have been issued to the petitioner once again and it is double jeopardy.

4. It is seen from the records that in respect of the culmination of the earlier disciplinary proceedings in respect of the same charges, the petitioner has been given with the punishment of stoppage of increment of three months. Despite the charges have been made, the punishment is so lenient and no action has been taken from the Government to challenge the quantum of punishment. The fact remains that the earlier disciplinary proceedings has been brought to an end by imposing punishment on the petitioner for the proved charges. Now, once again, the show cause has been issued by the first respondent.

5. Mr.H.Mohamed Imran, learned counsel appearing for the petitioner submitted that once the authority has already passed an order of punishment, there ends the matter and it is unfair on the part of the first respondent to give another show cause as to how the conclusion report of the enquiry officer is still continuing.

6. Mr.J.Ashok, learned Additional Government Pleader appearing for the respondents submitted that the action against the petitioner and others have been initiated only pursuant to the Government Order in G.O.(2D).No.164, Revenue and Disaster Management Department Services Wing, Ser 4(1) Section, dated 22.05.2017, by invoking Rule 9A of Tamil Nadu Civil Services (Discipline and Appeal) Rules. Since two or more departmental officials are involved in the allegations, the learned counsel claimed that the Government is the rightful authority who can conduct the disciplinary proceedings, but, the petitioner was dealt with by the District Collector.

7. So it is claimed that the earlier mistake has been rectified by way of issuing a fresh show cause notice and it cannot be called as charge memo on the very same allegations. The learned counsel appearing for the petitioner has drawn the attention of this Court to the Government Letter No.11563/Ser. 4(1)/2016-8, Revenue and Disaster Management Department, dated 01.08.2017, through which, the Government has instructed the Collector to deal with the same. But, the above exercise is purely due to the complete misconstruction of Rule 9A of Tamil Nadu Civil Services (Discipline and Appeal) Rules and by overlooking the proviso to the said Section. On perusal of the punishment imposed on the petitioner, it is seen that such grave and severe charges have been proved and the delinquent has been given with the stoppage of increment for three months. It would have been correct if the Government had taken the issue itself and dealt the enquiry report. In that case, the punishment could have been different. Learned counsel for the petitioner submitted that the Government did not act with all seriousness as against other delinquents and two delinquents have been exonerated from the charges.

8. It is submitted by learned Additional Government Pleader appearing for the respondents that two persons have retired and hence, the Government has passed order for allowing the retirement and it is fair on the part of the respondents to rewrite the disciplinary proceedings. Orders have already passed by imposing a punishment, though it is a minor punishment.

9. The respondents having chosen to deal with the charges against the petitioner in a particular manner and allowed to be ended by way of getting a punishment against the petitioner, cannot rewrite the same charges in the name of show cause for the purpose of enhancing the punishment. However, it is upto the respondents to raise any appeal by challenging the order of the third respondent.

10. Hence, the petitioner is absolved for having suffered a punishment and the impugned charge memos issued by the respondents dated 26.07.2023 and 24.02.2023 are liable to be set aside.

11. Accordingly, the writ petitions are **allowed** the impugned charge memos issued by the respondents dated 26.07.2023 and 24.02.2023 are set aside. So far as the direction as to include the petitioner's name for promotion, she is at liberty to give representation to the third respondent and the third respondent shall consider and pass orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

30.07.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
TSG
To

1.The Secretary to Government,
State of Tamil Nadu,
Revenue and Disaster Management Department,
Services Wing Ser 4(1) Section,
Secretariat,
St.George Fort,
Chennai.

2.The Principal Secretary
/ Commissioner of Revenue Administration,
Chepauk,
Chennai.

3.The District Collector,
Tirunelveli District,
Tirunelveli.

4.The District Revenue Officer,
Tirunelveli,
Tirunelveli District.

R.N.MANJULA, J.

TSG

Common Order made in W.P.(MD)Nos.15446, 4430 & 16167 of 2024

30.07.2024