



W.P(MD) No.18082 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.04.2024**

CORAM:

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**

W.P.(MD) No.18082 of 2023

and

W.M.P(MD)Nos.15087 & 15088 of 2024

T.S.Jeeva

... Petitioner

Vs.

1.The Secretary to Government

Municipal Administration and Water Supply Department,  
Fort St. George,  
Chennai – 600 009.

2.The Director of Town Panchayat,

Directorate of Town Panchayat Office,  
MRC Nagar,  
Raja Annamalaipuram,  
Chennai – 600 028.



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3.The Assistant Director of Town Panchayat,  
Nagercoil Zone,  
Nagercoil,  
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 1<sup>st</sup> respondent in G.O.(D).No. 51 Municipal Administration and water Supply (TP-3) Department, dated 07.02.2023 and quash the same as illegal and unconstitutional and consequently directing the respondents 1 and 2 herein to give promotion to the post of Assistant Executive Engineer on par with the petitioner immediate juniors with all attendant and monetary benefits

For Petitioner : Mr.K.Govindarajan  
for Mr.C.Gangai Amaran  
For Respondents : Mr.T.Amjad Khan,  
Government Advocate



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## **ORDER**

Heard Mr.K.Govindarajan, learned counsel representing Mr.C.Gangai Amaran, learned counsel appearing for the petitioner and Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents.

2.The petitioner has filed this Writ Petition seeking for a Writ of Certiorarified Mandamus challenging the order, dated 07.02.2023 on the ground that the order has been passed without considering the petitioner's explanation as against each charges proved against her. The petitioner does not have any quarrel that the enquiry proceedings have been conducted only after giving due opportunity. The Enquiry Officer after having conducted a detailed enquiry, has given a report stating that out of 14 charges, 8 charges (i.e., 3, 4, 5, 6, 7, 8, 11 and 14) are only proved against the petitioner. Consequently, the petitioner was given with a 2<sup>nd</sup> show-cause notice for making submissions in respect of punishment



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imposed against him. The petitioner has given a representation and after considering his representation, the impugned order has been passed.

3.However, it is claimed by the petitioner that the order does not state how the explanation of the petitioner has been considered as against each of the proved charges against her and the order of punishment has been passed in a mechanical manner. Of course, on a perusal of the order, dated 07.02.2023, it is seen that there is a reproduction of the explanation submitted by the petitioner. However, it is claimed that there is no discussion on those submissions. It appears that the petitioner has not stated about the punishment, if any to be imposed on him or why he does not deserve punishment to be imposed or why she deserves a minor punishment for the charges proved against her. All those submissions made by the petitioner are the same facts that has been pleaded by her during the enquiry proceedings before the Enquiry



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Officer, by submitting his explanation to the charge memo. Only after considering the explanation of the petitioner and after conducting a thorough enquiry, the Enquiry Officer has passed an order stating that the charges against the petitioner have been proved.

4. However, the petitioner had not chosen to challenge the enquiry report, but had chosen to challenge the order dated 07.02.2023 alone which was passed by imposing a punishment of stoppage of two years increment with cumulative effect for two years.

5. On a perusal of the said order, I do not find any disproportionality in the punishment awarded for the proven charges and the authority concerned, the first respondent had passed the order having conscious of the fact that there are at least 8 charges (i.e., 3, 4, 5, 6, 7, 8, 11 and 14) have been proved against



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her. Hence, I find no merit in statement that the first respondent did not consider the submission of the petitioner before passing the order of punishment. Admittedly, the petitioner has not chosen to file any review application, but, has challenged the order of punishment, as though there is some violation of principles of natural justice.

6. Since the order has taken into consideration of all those proved facts along with the explanation already submitted by the petitioner and have also chosen the quantum of punishment in a very liberal manner, which is completely proportionate to the charges proved against the petitioner. If the petitioner is really aggrieved due to the acceptance of the enquiry report, it would be appropriate for her to file a review petition on any grounds on facts which she would prefer to raise or to file any mercy petition before the authority concerned to reconsider the order of punishment.



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7. With these observations, this Writ Petition is **disposed of**. No costs. Consequently, connected miscellaneous petitions are closed.

**08.04.2024**

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

RM



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To

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**R.N.MANJULA, J.**

RM

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