



W.P(MD)No.26494 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2024

CORAM

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P(MD)No.26494 of 2022

K.Ponniah

... Petitioner

Vs.

1.The Additional Chief Secretary /
Commissioner of Revenue Administration,
Ezhilagam,
Chepauk,
Chennai-600 005.

2.The District Collector,
Madurai District,
Madurai-625 020.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling the records of the second and first respondents (i.e.,) the District Collector, Madurai in his ந.க.எண்.பஅ5/78009/2012, dated 30.01.2015 and the Additional Chief Secretary / Commissioner of Revenue Administration, Chennai in his proceedings in செ.மு.ஆணை எண்.பணி5(2)/530/2016, dated 19.07.2022 and quash the same and pass such other orders as this Court.



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For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

This writ petition has been filed to quash the order, dated 30.01.2015 and 19.07.2022 passed by the respondents.

2. The case of the petitioner is that the petitioner was served as Village Administrative Officer in Iyanarkulam Papapatti Village, Usilampatti Taluk, Madurai District and his date of superannuation was on 31.01.2015 and was also allowed to retire on attaining the age of superannuation as per proceedings No.293/2015/A1, dated 31.01.2015 of the Revenue Divisional Officer, Usilampatti, Madurai District.

3. The grievance of the petitioner is that while he was in service, disciplinary action was initiated against him by the District Collector, Madurai under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal Rules) in his memo No.G2/56002/12, dated 25.10.2012 on the ground that he has recommended mistakenly transfer of registry in respect of



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Thiru.P.Palanichamy from Patta No.73 of Tiruchunai Village, Melur Taluk, Madurai District and final orders were passed by the District Collector, Madurai inflicting a punishment of stoppage of increment for a period of three years with cumulative effect as per proceedings No.78009/2012, dated 30.01.2015.

4. Thereafter, the petitioner preferred an appeal to the first respondent and it was rejected by the first respondent on 19.07.2022. Aggrieved by the order passed by the District Collector as well as the Appellate Authority, the petitioner has come forward with the present writ petition.

5. The learned Counsel appearing for the petitioner's main contention is that the stoppage of the increment was ordered on 30.01.2015 when his date of retirement was on 31.01.2015 when no increment was due to be accrued. He further submitted that the Appellate Authority [first respondent] has dismissed / rejected the appeal filed by the petitioner challenging the order of the second respondent / District Collector, Madurai vide Na.Ka.No.PaA5/78009/2012, dated 30.01.2015 after a delay of eight months. Since the same was filed after a delay of 8 months and 5 days and according to the rules, the appeal has to be



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filed within two months from the date of the order passed by the concerned authority. The learned Counsel appearing for the petitioner further submitted that as per specific provisions contained under Rule 8(iii) of the Tamil Nadu Civil Services (Discipline and Appeal Rules), when no increment is due to be accrued, increment stoppage cannot be ordered.

6. The learned Counsel appearing for the petitioner also relied on the judgment of the Hon'ble Division Bench of this Court in W.A(MD)No.239 of 2007, dated 03.09.2007.

7. The counter affidavit was filed by the second respondent on 21.10.2024.

8. The learned Government Advocate appearing for the respondents submitted that since due to suspension as well as the pendency of charges, increments for three years was not sanctioned and paid to the petitioner herein. Hence, the petitioner herein has given in writing and undertaking, dated 31.01.2015 to adjust three increments due to him with the punishment imposed by the disciplinary authority.



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9. Heard both sides and perused the materials available on record.

10. In this case, the disciplinary authority has passed an order imposing punishment of increment cut for a period of three years with cumulative effect by order, dated 30.01.2015 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal Rules). Aggrieved by the above order, the petitioner has challenged the same before the first respondent by way of appeal but the time for filing such appeal is only two months, whereas the petitioner has filed the appeal belatedly after a delay of 8 months and 5 days. On this ground alone, the appeal was rejected / dismissed by the first respondent.

11. In view of the above facts and circumstances of the case, the order passed by the first respondent is liable to be quashed and the same is accordingly quashed and the matter is remitted back to the first respondent for fresh consideration.



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12. The first respondent is directed to consider the appeal filed by the petitioner, dated 06.10.2015 on merits and in accordance with law, within a period of three (3) months from the date of receipt of a copy of this order.

13. The writ petition stands disposed of with the above observations and directions. There shall be no order as to costs.

25.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

1.The Additional Chief Secretary /
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2.The District Collector,
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J.SATHYA NARAYANA PRASAD, J.

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