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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.27663 of 2023
and
W.M.P(MD)No.23763 of 2023

A.Kalimuthu ... Petitioner

Vs

1.The Principal Secretariat Government,
Revenue and Disaster Management Department,
Services Wing,
Chennai.

2.The Additional Chief Secretary/Commissioner of Revenue Administration,
Chepauk, Chennai – 5.

3.The District Collector,
District Collectorate,
Thoothukudi,
Thoothukudi District. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, to call for the records pertaining to the charge memo issued by the 2nd respondent dated 17.08.2023 in Ku.Ku.No.Pani-2(4)/01-30/2022 and quash the same.

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For Petitioner : Mr.T.Lajapathiroy
Senior Counsel

For Respondents : Mr.A.Baskaran
Additional Government Pleader

ORDER

This writ petition has been filed by a Deputy Collector challenging a charge memo issued by the second respondent on 17.08.2023.

2.A perusal of the charge memo reveals that the petitioner has been charged with two counts of charges:-

a)The first count of charge relates to the fact that while the petitioner was working as Tashildar in Kovilpatti between 20.12.2010 and 07.04.2012, he had not initiated any steps to remove an encroachment of 65 sq.ft in Government Poromboke in S.No.292/3;

b)the second count of charge relates to the fact that he had not taken any departmental action as against the officials who are responsible for not removing the encroachment.

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3.The learned Senior Counsel appearing for the writ petitioner had contended that the petitioner was working as Tashildar at Kovilpatti between 20.12.2010 to 07.04.2012. The said encroachment was made prior to his tenure and it had continued even after his tenure. Therefore, according to him, the petitioner alone has been discriminated and the present charge memo has been issued.

4.In view of the above said submissions, this Court by an order dated 25.11.2024 had directed the authorities to file a status report with regard to the date on which such an encroachment was made and whether the said encroachment has already been removed or not.

5.Pursuant to the order of this Court, the third respondent has given written instructions to the learned Additional Government Pleader on 02.12.2024 to the effect that the encroachment has not yet been removed. The reasons assigned in the status report is that the encroacher who was the Panchayat President was murdered on 22.08.2022 and therefore, the encroachment has not yet been removed.

6.From the above said status report, it is clear that the encroachment was

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not removed even after the tenure of the writ petitioner atleast till 2022 for a period of 10 years. So many Tashildars would have served during the above said period. However, the petitioner alone has been cherry picked and a charge memo has been issued. Even though this Court has called for a status report as to the date of encroachment, the said information is not forthcoming from the written instructions. Therefore, this Court has only to construe that the encroachment was there, even prior to the tenure of the writ petitioner.

7.In such circumstances, it is clear that the petitioner has been cherry picked and the charge memo has been issued for not removing an encroachment to an extent of 65 sq. feet in Government poromboke survey No.292/3. In such circumstances, this Court is of the considered opinion that the charge memo is liable to be set aside.

8.Accordingly, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is also closed.

03.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
RJR

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R.VIJAYAKUMAR, J.

RJR

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