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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2025

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.6500 of 2025

and

W.M.P.Nos.7154 & 7155 of 2025

V.Moganmani

.. Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Adi Dravidar Welfare,
Chepauk, Chennai – 600 005.

3.The Adi Dravidar and Tribal Welfare Officer,
Tiruvallur District,
Tiruvallur.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent in Na.Ka.No.J3/18139/2020 dated 05.07.2023 and in Na.Ka.No.J3/18139/2020 dated 16.11.2023 and the consequential order passed by the 1st respondent in G.O.(D) No.190 Adi Dravidar and Tribal Welfare Department dated 16.09.2024 and to quash the same and



consequently to direct the 2nd respondent to treat the entire period of suspension from 29.08.2019 to 24.02.2021 as duty period in accordance with the provisions under Sub-Rule 10 of Rule 54-B of the Tamil Nadu Fundamental Rules, 1922, within a reasonable period as may be fixed by this Court.

For Petitioner	.. Mr.S.N.Ravichandran
For R1 to R3	.. Mr.Haja Nazirudeen, AAG, Assisted by V.Nanmaran, AGP

ORDER

The Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to an order passed by the 2nd respondent, Commissioner of Adi Dravidar Welfare Department, Chennai, dated 05.07.2023 and the order dated 16.11.2023 and consequential order passed by the 1st respondent on 16.09.2024 in G.O.(D) No.190 Adi Dravidar Tribal Welfare Department and to quash the same.

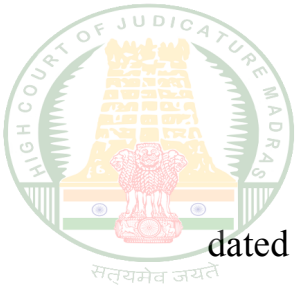
2.In the affidavit filed in support of the Writ Petition, it had been stated that the petitioner was holding the post of Warden at the Government Adi Dravidar Welfare Boys Hostel, Mathur, Tiruttani Taluk. He was placed under suspension by the 3rd respondent by order dated 29.08.2019. It was



contended that the petitioner involved himself in unlawful transfer of Civil Supplies rice supplied to the hostel to the 3rd parties.

3.In this connection, FIR in Crime No.165/2019 had been registered by the Civil Supplies CID Police at Thiruvallur not only against the petitioner but against totally nine accused persons. On completion of investigation a final report was taken cognizance as C.C.No.95 of 2020 and the trial took place before the Judicial Magistrate No.I, Tiruvallur, who by judgment dated 26.10.2021 had acquitted all the accused from all the charges. But however, the disciplinary proceedings proceeded.

4.The learned counsel for the petitioner drew notice of this Court to the nature of final report filed. It is contended that no witnesses were examined and in the enquiry report, after reducing the charges, the explanation of the petitioner was given in free writing and the enquiry officer had rejected the explanation and had returned a finding that the charges had been established. Thereafter, a punishment was imposed by the 2nd respondent of penalty of stoppage of increment for three years with cumulative effect. Questioning such punishment, the petitioner had filed an appeal before the 1st respondent. An order was passed by the 1st respondent culminating G.O.(D) No.190, Adi Dravidar and Tribal Welfare Department



dated 16.09.2024 rejecting the appeal. But however, the records also reveal that the petitioner had filed detailed grounds of appeal stating as to why the punishment should be interfered with and why the findings in the enquiry report should be set aside.

5.The order of the 1st respondent in G.O.(D).No.190, Adi Dravidar and Tribal Welfare Department dated 16.09.2024 had not considered the grounds raised by the petitioner. The order also does not refer to the fact that in the enquiry report, the explanation of the petitioner had been reduced in free writing and thereafter, the enquiry officer had returned a finding that the charges had been held proved. It had also been not noted that the witnesses were not examined during enquiry.

6.These are aspects which the appellate authority should consider in their proper perspective. The grounds raised by the petitioner should have been considered and the appellate authority should have come to an independent subjective satisfaction on all surroundings facts. The documents had also not been marked. Even the witnesses who had been marshalled before the criminal Court were not examined during the enquiry process.



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7. In view of all these facts, I would set aside the order of the 1st respondent in G.O.(D) No.190, Adi Dravidar Tribal Welfare Department dated 16.09.2024 and remand the matter back to the 1st respondent for fresh consideration on all aspects including the points mentioned above.

8. Let the 1st respondent pass appropriate orders within a period of three months from the date of receipt of a copy of this order. If required, the petitioner may be served with notice and granted an opportunity of personal hearing. Weightage of the judgment of the criminal case may also be considered by the 1st respondent before any order is passed. The fact that no witnesses were examined during the course of enquiry may also be examined by the 1st respondent. On disposal by the 1st respondent, a decision can be taken as to how the period of suspension should be treated. To that limited extent, this Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

02.04.2025

Index: Yes/No
Internet: Yes/No
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To

1. The Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai – 600 009.
2. The Commissioner of Adi Dravidar Welfare,
Chepauk, Chennai – 600 005.
3. The Adi Dravidar and Tribal Welfare Officer,
Tiruvallur District,
Tiruvallur.



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C.V.KARTHIKEYAN,J.

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