



W.P.No.5671 of 2021

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2025

CORAM

THE HONOURABLE MRS JUSTICE N. MALA

W.P.No.5671 of 2021

S.Maragathavelan

.... Petitioner

Vs.

1. The Managing Director
Tamil Nadu Water Supply and Drainage
Board,
No.31, Kamarajar Salai, Chepuak,
Chennai 600 005.

2.The Chief Engineer
Tamilnadu Water Supply and Drainage
Board, Vellore-6

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Ceritorarified Mandamus, to call for the records of the proceedings of the 1st respondent vide Proc.No.17030/ Estt.(DP)/ A4/ 2018-1 dated 22.04.2020 by which the petitioner was awarded the punishment of “CENSURE” as confirmed by the Appeal Sub-Committee as per the orders of the 1st respondent vide B.P.Ms. No.100 (Estt. (DP) wing) dated 17.11.2020 and



W.P.No.5671 of 2021

WEB COPY

also the order dated 04.06.2020 passed by the 2nd respondent vide Proc.No.C1/1792/F.1458/2020/CE/VLR and quash the same and consequently direct the respondents to regularise the 627 days of the petitioner's suspension period from 07.08.2018 FN to 24.04.2020 AN as duty with all consequential benefits, including monetary and service benefits.

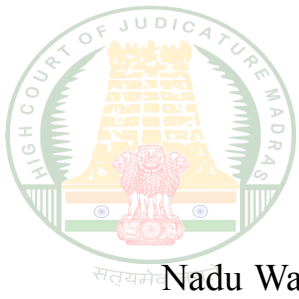
For Petitioner(s): Mr.S.M.Murali Dharan

For Respondent(s): Mr.S.Ravindran,
Senior Counsel
for M/s.S.Mekhala

ORDER

The present writ petition is filed for Writ of Ceritorarified Mandamus, to call for the records of the proceedings of the 1st respondent vide Proc.No.17030/ Estt.(DP)/ A4/ 2018-1 dated 22.04.2020 by which the petitioner was awarded the punishment of “CENSURE” as confirmed by the Appeal Sub-Committee as per the orders of the 1st respondent vide B.P.Ms. No.100 (Estt. (DP) wing) dated 17.11.2020 and also the order dated 04.06.2020 passed by the 2nd respondent vide Proc.No.C1/1792/F.1458/2020/CE/VLR and quash the same and consequently direct the respondents to regularise the 627 days of the petitioner's suspension period from 07.08.2018 FN to 24.04.2020 AN as duty with all consequential benefits, including monetary and service benefits.

2. The case of the petitioner was that he joined the services of the Tamil



W.P.No.5671 of 2021

WEB COPY

Nadu Water Supply and Drainage Board on 18.06.1985, as Assistant Engineer and lastly worked as Deputy Superintending Engineer, TWAD Board, Kancheepuram-Thiruvallur Circle and retired from the Service on 30.04.2021. It is stated that, in the year 2018, he was suspended on the premise that the respondent/Board was contemplating enquiry against him on the release of payment of 25% of the contract amount to a contractor viz., M/s.VVV Construction, Chennai, which was awarded contract for implementing WSIS scheme for Chidambaram Municipality and that there were some irregularities in implementing the scheme. It is further stated that as the petitioner was placed under suspension for a prolonged period, without any enquiry, he filed a writ petition in W.P.No.19552 of 2019, seeking quashment of the charge memo. The said writ petition was dismissed on 08.07.2019. Thereafter, the petitioner preferred Writ Appeal in W.A.No.3445 of 2019 and the same was also dismissed on 17.10.2019, with a direction to expedite and conclude the disciplinary proceedings against the petitioner before the end of February 2020. Pursuant to the Division Bench order, enquiry was conducted and the Enquiry Officer submitted a report on 05.03.2020, to the first respondent with a categorical finding that none of the charges framed against the petitioner were proved. As the 1st respondent differed with the findings of the Enquiry Officer, a communication dated 21.04.2020, was issued to the petitioner to file his defence

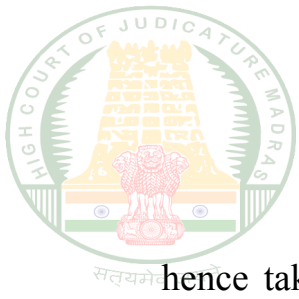


W.P.No.5671 of 2021

WEB COPY

statement on the differing view. The petitioner filed a defence statement on 21.04.2020. Thereafter, the first respondent passed the impugned order dated 22.04.2020, imposing the punishment of “CENSURE”. The 1st respondent also passed an order on 23.04.2020, revoking the petitioner's suspension treating the period of suspension as leave. Consequent to the above order of the 1st respondent, the 2nd respondent passed the order dated 04.06.2020, where under the period of suspension i.e., from 07.08.2018 FN to 24.04.2020 AN, totalling 627 days were treated as leave and 297 days, out of the said 627 days, were regularised as EOL without pay and allowances. The petitioner preferred an appeal against the said order before the Appellate Authority and the appeal was placed before Appeal Sub-Committee. After careful examination of all the records, the Appeal Sub Committee confirmed the order of the first respondent. Aggrieved by the said order, the petitioner filed the present writ petition.

3. The first respondent filed a detailed counter affidavit justifying the Disciplinary Authority's order on the ground that a speaking order was passed for the grave irregularities committed by the petitioner. According to the respondents, the petitioner being a Deputy Superintending Engineer, it was his duty to verify everything on the field before making payments. It was stated that due to the gross negligence of the petitioner, the Board suffered huge loss and



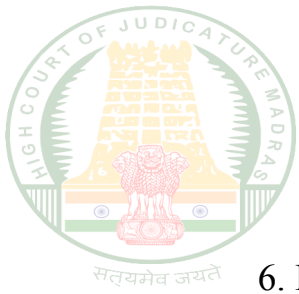
W.P.No.5671 of 2021

WEB COPY

hence taking into consideration the irregularities committed by the petitioner, the minor penalty of 'Censure' was imposed. The respondent therefore prayed that the present writ petition was liable to be dismissed.

4. The learned counsel for the petitioner submitted that the impugned order passed by the first respondent was liable to be set-aside as it was illegal. The counsel submitted that the 1st respondent pre-determined the issue which was evident from the fact that the impugned order was passed within a day of receiving the defence statement put forth by the petitioner. The counsel further submitted that even the Appellate Authority did not consider the defence statement and had mechanically confirmed the order of the Disciplinary Authority. Hence, he prayed for setting aside the impugned order.

5. The learned counsel for the respondents reiterated the averments made in the counter affidavit and stated that only because of the gross negligence of the petitioner, the respondent/Board had suffered huge loss, and therefore taking into consideration the irregularities committed by the petitioner, a minor punishment of 'Censure' only was imposed. He submitted that there were no merits in the writ petition and the same was liable to be dismissed.



W.P.No.5671 of 2021

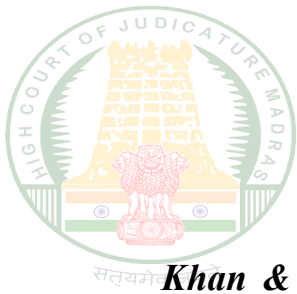
WEB COPY

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

7. From a perusal of the impugned order passed by the Disciplinary Authority, it is clear that there is total non-application of mind, inasmuch as, the Disciplinary Authority has not even considered the defence statement submitted by the petitioner. The Disciplinary Authority, in the impugned order, stated as under:

“The explanation offered by the delinquent officer on the Disciplinary Authority's view on Enquiry Officer's findings are not acceptable. Therefore, the charges are held proved”.

8. In the impugned order of the Disciplinary Authority, absolutely no reasons are cited for rejecting the explanation offered by the petitioner, and even the Appellate Authority without even considering the appeal grounds submitted by the petitioner, mechanically confirmed the order of the Disciplinary Authority. It is trite in law that reasons are heart beat of administrative decisions as they form the link between the mind of the decision maker and controversy in issue. The Hon'ble Supreme Court and this Court, in catena of judgements, have reiterated the said principle. Suffice it to refer to the judgement of the Hon'ble Supreme Court in ***Kranti Associates Pvt. Ltd., & another Vs. Masood Ahmed***



W.P.No.5671 of 2021

WEB COPY

Khan & other reported in **2010 (9) SCC 496**, wherein the Hon'ble Supreme

Court succinctly summarised the legal principles as follows in para 47:

47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.



WEB COPY



W.P.No.5671 of 2021

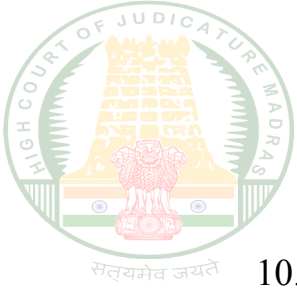
(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in *Defence of Judicial Candor* [(1987) 100 Harvard Law Review 731-37] .)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See *Ruiz Torija v. Spain* [(1994) 19 EHRR 553] EHRR, at 562 para 29 and *Anya v. University of Oxford* [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, “adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.

9. In view of the above discussions, I am of the view that the impugned orders are liable to be set-aside. Therefore, finding merit in the writ petition, the impugned orders are set-aside and a direction is issued to the respondents to regularise 627 days i.e., from 07.08.2018 FN to 24.04.2020 AN as duty with all consequential benefits, including all attendants benefits and pay the same within a period of twelve (12) weeks from the date of receipt of a copy of this order.



W.P.No.5671 of 2021

10. With the aforesaid terms, this Writ Petition is allowed. No costs.

WEB COPY

25.02.2025

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

jd

To

1. The Managing Director
Tamil Nadu Water Supply and Drainage
Board,
No.31, Kamarajar Salai, Chepuak,
Chennai 600 005.

2. The Chief Engineer
Tamilnadu Water Supply and Drainage
Board, Vellore-6 Board, Vellore-6



WEB COPY



W.P.No.5671 of 2021

N. MALA,J.,

jd

W.P.No.5671 of 2021

25.02.2025