



WEB COPY

WP No. 16341 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-04-2025

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

WP No. 16341 of 2019

1. N.Kuppurathinam

S/o. Late. S.Neelakantan, Deputy

Collector, (Retired), 50/ 37, Raju Street,

West Mambalam, Chennai - 33 Chennai

Petitioner(s)

Vs

1. The Principal Secretary to

Government,

Revenue and Disaster Management

Department, Service Wing, Service.

2(1) Section, Secretariat, Chennai

9Chennai

2.The Additional Chief Secretary,

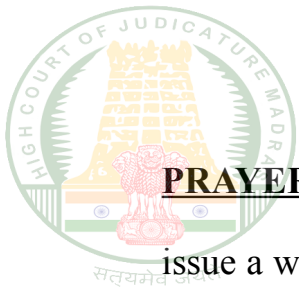
Commissioner of Revenue

Administration, Chepauk, Chennai 5

3.The District Collector,

Cuddalore

Respondent(s)



PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records relating to the 1st respondent vide G.O.(2D) No. 09 Revenue and Disaster Management Department, Services Wing, Service 2(1) Section, dated 22.01.2019 and to quash the same, and consequently direct the respondents to regularize the pensionary benefits of the petitioner as per the Tamil Nadu Pension Rules 1978.

For Petitioner(s): M/s.S.Vijayakumar

For Respondent(s): Mr.T.Chezian,
Additional Government Pleader

ORDER

This writ petition has been filed to call for the records relating to the order of the 1st respondent vide G.O.(2D) No. 09 Revenue and Disaster Management Department, Services Wing, Service 2(1) Section, dated 22.01.2019 and to quash the same, and consequently direct the respondents to regularize the pensionary benefits of the petitioner as per the Tamil Nadu Pension Rules 1978.

2. The petitioner joined as Junior Assistant on 01.03.1982 and has retired from service on his attaining the age of superannuation on 31.08.2013 to the post of Deputy Collector. While the petitioner was working as Tahsildar he was given with a charge memo on 26.09.2009 by alleging that in connivance with the Zonal Deputy Tahsildar, Village Administrative Officer and Junior Assistant,



the petitioner had given a false nativity certificate to one Krishnamoorthy by affixing his photograph but by describing him as Vetriselvan S/O. Sadayan. It is further alleged that the petitioner has got illegal gratification for the purpose of issuing such a certificate to Krishnamoorthy and was acting in favour of travel agents and passport agents for creating false documents. It is further alleged that the petitioner had issued the above certificate without proper verification of photographs affixed in the certificate. However, the charges in respect of corruption has not been proved. The other charges are inter-related to the issuance of the false residential and identity certificate to Krishnamoorthy. On the enquiry conducted in this regard, the charges against the petitioner were proved and thereafter he was imposed with the punishment of 1/3rd cut in the pension. Even though the disciplinary proceedings were pending at the time when he attained the age of superannuation, he was allowed to retire. Only subsequent to this retirement the punishment order has been issued.

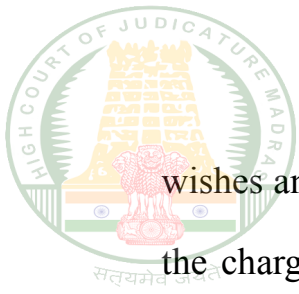
3. Mr.S.Vijayakumar, the learned counsel for the petitioner submitted that the petitioner has retired as early as on 31.08.2013 but the order of punishment has been passed only on 22.01.2019 with an inordinate delay. He further submitted that the co-delinquents were not examined jointly and the charges against them have been dropped. So it is claimed that the petitioner was treated in a discriminatory manner.



4. Mr.T.Chezhian, the learned Additional Government Pleader appearing for the respondents, submitted that the delay cannot be attributed to the respondents because lot of verification and cross-verification process has been involved in verifying the false certificates and an approval has to be obtained from the Tamil Nadu Public Service Commission for imposing punishment against the petitioner. Since no evidence is available as against the other delinquents, further action was dropped against them.

5. On perusal of the records it is seen that further action against the Village Administrative Officer has been dropped on the finding that he has issued the certificate to the right person and he was not responsible for the malpractice. The Zonal Tahsildar was also given with a clean chit stating that he did not handle the case at all and he did not connect to any of the consequences involved in this issue.

6. Despite the charges have been made against Group -II Officials, the respondents did not thought it fit to conduct a joint enquiry. The petitioner alone was enquired individually. The enquiry officer arrived at a conclusion that the charge of getting illegal gratification (corruption allegations) was not proved against the petitioner. The petitioner being the Tahsildar could not have issued a certificate on his own without the aid of other officials who should forward the file to him. In the charges it is not alleged that the VAO has given right certificate but the petitioner alone has changed the photographs according to his



wishes and acted in connivance with the travel agencies and third parties. When the charges have been issued against a group of delinquents by believing that *prima facie* charges would arise against all the officials, the petitioner alone has been enquired individually.

7. The charges were dropped against the other officials namely the Zonal Tahsildar and VAO by passing an Government order on 01.08.2014. The Enquiry Officer has given his findings by submitting his report on 22.06.2012 and that would only show that even before the decision to drop the charges against the other officials was taken, the disciplinary proceedings against the petitioner was initiated. In such case the proceedings ought to have been initiated jointly against all the delinquents without secluding the petitioner alone.

8. Even the finding of the Enquiry Officer would only state that the petitioner without making any proper enquiry, has affixed the wrong photographs and issued the certificate without following the established guidelines. The petitioner has stated in his explanation that he had verified the materials submitted before him by his subordinates and thereafter only he had issued the certificate. The petitioner has stated that he had seen the photographs in the certificate issued by VAO and the photographs given by the petitioner and the certificate affixed on the application and only after verifying the similarities, he had issued the certificate. But someone had misused the certificate without



his knowledge and affixed wrong photographs on certificate issued by the petitioner. In fact he had conducted an enquiry and acted only in accordance with the facts disclosed during his enquiry and every malpractice that had occurred behind his back without his knowledge.

9. It is true whenever a certificate is issued, the first level enquiry will be made by the Village Administrative Officer and after his examination the next level officer will also endorse the enquiry done by Village Administrative Officer and then only forward the file to the Tahsildar. Even according to the respondents, the petitioner did not give any illegal gratification and there was no such previous allegations against him during his past 30 years of service.

10. Even though the charges 4 and 5 have been recorded as proved, they are interlinked with the charge of issuing a false certificate. Even the first respondent in his order did not state that the petitioner has been an habitual delinquent and he was issued with another charge and punished. Though the proceedings has been initiated as early as in the year 2009, the order of punishment was issued only in the year 2019 with a delay of 10 years.

11. It is submitted by the learned Additional Government Pleader that the delay is unavoidable in the cases of this nature for the purpose of making comparison of the facts and also for getting prior approval from the Tamil Nadu Public Service Commission. But the same thing should have been done in the



case of the other delinquents namely the Zonal Tahsildar and the Village Administrative Officer. But as against them the enquiry has been concluded as early as in the year 2014 and the first respondent had arrived at a conclusion to drop further proceedings against them.

12. No doubt the petitioner has been treated on a different footing even though the allegations were same against all the delinquents. When the other delinquents are relieved from the charges, the petitioner alone was punished for a final act of issuing the certificates. So the question of delay cannot be taken lightly in a discriminatory fashion against this petitioner alone.

13. No doubt in a petition filed under Article 226 of the Constitution of India, filed challenging the punishment order passed by the disciplinary authority is very limited, the discrimination shown against one particular delinquent cannot be taken so lightly. Though the proposal to implement the punishment of reduction of 1/3rd pension was approved by TNPSC itself only for 7 years, without assigning any reasons to deviate from the recommendation of TNPSC, the Government has taken its own view of imposing the punishment on the entire retirement benefit of the petitioner.

14. If the petitioner has not received any illegal gratification, then there cannot be any reason for playing any active role in creating false documents. In the order of punishment the petitioner's clean past service records was not



considered. Even though the delay can be attributable to the complex nature of allegations and the difficulty in securing the materials, that should be applicable equally to the other delinquents also. When an order has been given as against the co- delinquents in the year 2014, the petitioner alone should not be allowed to suffer for nearly 10 years to know the ultimatum of the enquiry initiated against him. In view of the same, I feel the impugned order is liable to be quashed.

15. Accordingly, this writ petition is allowed and the order passed by the 1st respondent vide G.O.(2D) No. 09 Revenue and Disaster Management Department, Services Wing, Service 2(1) Section, dated 22.01.2019, is hereby quashed and the respondents are directed to restore the pensionary benefits of the petitioner as though he was allowed to get pension on the basis of his last drawn pay at the time of his superannuation. No costs.

16-04-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To
WEB COPY

1. The Principal Secretary to
Government,
Revenue and Disaster Management
Department, Service Wing, Service.
2(1) Section, Secretariat, Chennai
9Chennai
2. The Additional Chief Secretary,
Commissioner of Revenue
Administration, Chepauk, Chennai 5
3. The District Collector,
Cuddalore



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R.N.MANJULA J.

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