



W.P.No.26632 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 04.04.2025

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.26632 of 2021

and

WMP.No.28081 of 2021

G.Sowrirajan

... Petitioner

Vs.

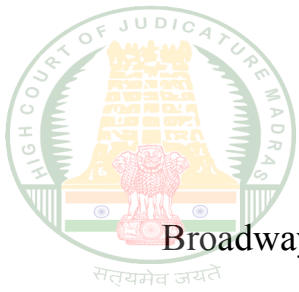
1. The Principal Secretary to Government,
Revenue and Disaster Management Department
Services Wing, Service 2(1) Section,
Secretariat, Fort. St.George,
Chennai-600 009.

2. The District Collector,
Thiruvarur District,
Thiruvarur.

3.The Commissioner for Disciplinary Proceedings,
Office of the Commissioner for Disciplinary Proceedings,
Tiruchirappalli.

4.The Secretary,
Tamil Nadu Public Service Commission,

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Broadway, Chennai- 600 003.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent relating to the G.O. (2D) No.117, Revenue and Disaster Management Department, Services Wing, Service 2(1) Section dated 30.08.2021 and quash the same and consequently direct the respondents to pay full pension along with other service and monetary benefits to the petitioner.

For Petitioner : Mr.C.Munusamy

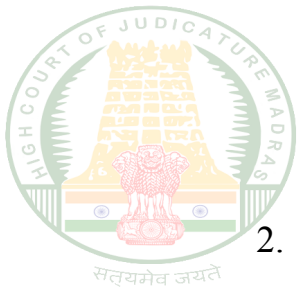
For Respondents : Mr.E.P.Senniyangiri,
Government Advocate
for RR 1 to 3
Mr.R.Bharanidharan
for R4

ORDER

The writ petition is filed challenging the impugned punishment order dated 30.08.2021, passed by the 1st respondent imposing punishment of 1/3 cut in pension of Rs.4,070/- permanently from the petitioners pension, to quash the same and further direct the respondents to pay full pension and service monetary benefits to the petitioner.

The breif facts of the case:

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2. The petitioner was initially appointed as Junior Assistant in Thiruvavur District Revenue Unit, on compassionate ground on 25.08.1980. The petitioner's services were regularised in the post of Junior Assistant, from the date of original appointment and the petitioner was subsequently given promotions to various posts. The petitioner retired as Deputy Collector, Additional Personal Assistant (Land) to the Collector, Nagapattinam, on 31.07.2015. Based on a preliminary enquiry, a charge memo dated 09.11.2011, was issued to the petitioner containing two charges, for mal-practises and irregularities committed by him along with other officers, while he was working as Tahsildar, Kodavasal Taluk, Tiruvavur District, during the year 2008. The 1st charge related to the preparation of list of damaged houses in the 2008 flood and the disbursement of the relief amount of Rs.2,000/- to the persons other than the beneficiaries. The 2nd charge related to the mal-practises and irregularities in the enumeration of the affected farmers of Kandiramanickam Village, Kodavasal Taluk, for crop damages caused by November-2008 flood, by excluding the names of the actual Pattadars and including the names of their family members in the list. The Disciplinary Tribunal conducted a detailed enquiry on the aforesaid charges and submitted its report on 29.04.2016, holding that the 1st charge was proved and the 2nd charge was not



proved. A show cause notice was issued to the petitioner on 30.11.2016, calling

WEB for his explanation to the enquiry report by annexing the copy of the enquiry report. The petitioner submitted his reply on 16.02.2017, and thereafter the respondent issued a 2nd show cause notice dated 15.04.2019, calling for the petitioner's objections to the proposed punishment. The petitioner submitted his detail reply on 18.07.2019, thereafter, the impugned order was passed.

3. On the basis of the facts narrated above, it is to be examined whether the impugned order imposing punishment of 1/3 cut in pension, amounting to Rs.4,070/- imposed on the petitioner, is sustainable or not.

4. The learned counsel for the petitioner submitted that the impugned order was liable to be set aside, as it was a non-speaking order, having failed to consider the detailed objections raised by the petitioner to the proposed punishment. The learned counsel for the petitioner further submitted that there was a procedural lapse in the conduct of Disciplinary Proceedings, as the respondent despite issuing the 1st show cause notice on 30.11.2016, already concluded that charge 1 was proved and charge 2 was not proved. This, he contended, demonstrated a predetermined decision undermining the fairness of the process. The learned counsel therefore submitted that the impugned order deserved to be set aside and



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the writ petition allowed.

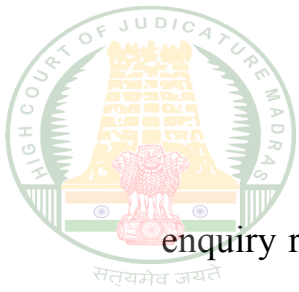
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5. The learned counsel for the respondents on the other hand placing reliance on the counter affidavit submitted that the Disciplinary Proceedings were conducted in strict compliance with the procedure and therefore the same did not call for any interference by this court.

6. I have heard both the learned counsels and perused the materials placed on record.

7. The main contentions of the learned counsel for the petitioner are two fold i) there is a procedural lapse in conduct of the disciplinary proceedings and ii) that the impugned order was vitiated in as much as the detailed objections raised by the petitioner in his reply to the proposed punishment were not considered.

8. In so far as 1st objection to the procedural lapse is concerned, it is seen that after conclusion of the enquiry proceedings, the Commissioner for Disciplinary Proceedings, submitted its report on 29.04.2016, to the Government. The Government issued a show cause notice on 30.11.2016, to the petitioner calling for his explanation to the enquiry report, by annexing the copy of the



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enquiry report. In the said show cause notice, it was stated that “the Government agrees with the findings of the Commissioner for Disciplinary Proceedings, Tiruchirapalli, in so far as it relates to charge one as proved and charge two as not proved”. Having already concluded that the first charge was proved, the respondent's issuance of the show cause notice dated 30.11.2016, appears to be a prefatory exercise, serving merely as an eyewash rather than a genuine opportunity of representation. As the respondent had a prejudged opinion, the notice does not commence a fair procedure. The petitioner is denied of an opportunity to rebut the allegations, and therefore, in my view, there is gross violation of principles of natural justice. Hence, the impugned order cannot be sustained as it is based on show cause notice, which is a mere empty formality.

9. In any event, the petitioner submitted his detail explanation on 16.02.2017, to the enquiry report and thereafter on 15.04.2019, the Government, issued 2nd show cause notice to the petitioner calling for his objections to the proposed punishment of pension cut. Even in the said notice, the Government did not assign any reasons for rejecting the petitioner's objections to the enquiry report. The Government merely stated that it examined the charges framed against him, the statement of his defence and the findings of the Tribunal along with his



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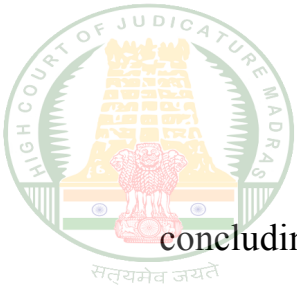
further explanation to the findings of the Tribunal and all connected records and after careful and independent examination, found that charge one was proved and charge two was not proved and therefore for the proven charges, the Government proposed to impose the punishment of withholding pension permanently. It is seen that the Government did not whisper about the objections raised by the petitioner to the enquiry report. Mere statement that the objections were examined and after careful and independent examination, the charge was found to be proved, in my view, does not satisfy the legal requirement of assigning reasons for rejecting the objections. The Government even without considering the petitioner's objections to the enquiry report, issued the 2nd show cause notice dated 15.04.2019, calling for his objections to the proposed punishment. The procedure adopted is against all canons of justice and fair play. In pursuance of the said notice, the petitioner submitted his objections to the proposed punishment on 18.07.2019, and thereafter the impugned order was passed. A bare reading of the impugned order shows that, none of the objections raised by the petitioner in his reply to the proposed punishment were considered. The impugned order extracts the charges, the defense statement, findings of the tribunal, the petitioner's further explanation to the findings of the Tribunal and ultimately records that the



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petitioner's representation was not convincing and so the Government decided to hold charge one as proved. The procedure adopted by the respondent for rejecting the petitioner's representations to the proposed punishment, in my view is against established procedure. The least that the respondent Government could have done was to record the objections raised by the petitioner in his representation and thereafter assign reasons for rejecting the same. In the absence of reasons, as rightly contended by the learned counsel for the petitioner, the only conclusion that can be drawn is that the authority has not applied its mind. In the absence of the reasons, the impugned order is to be considered as non-speaking order and hence unsustainable in law. I am therefore of the view that the impugned order deserves to be set aside on this ground also.

10. Normally, when an order is set aside for procedural lapse, the matter is remitted to the authorities for fresh consideration. I would beg to deviate from the normal practise, for the reasons assigned hereinunder. The misconduct/ irregularities/ malpractises relate to the year 2008. After protracted disciplinary proceedings, the impugned order of punishment was passed on 30.08.2021, after a lapse of almost 13 years. During the pendency of the Disciplinary Proceedings the petitioner retired on 31.07.2015. Considering the long and inordinate delay in



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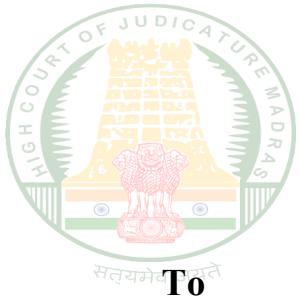
concluding the disciplinary proceedings, in view of the fact that the petitioner retired from service, as early as in 2015, I am of the considered opinion that this is not a fit case for remand for fresh consideration by the Government. 10 years have lapsed since the petitioner's retirement and therefore I would not want to prolong his agony by remanding the matter.

In view of the above discussions, the impugned order dated 30.08.2021, is set aside and the Writ Petition is allowed. The respondents are directed to pay the petitioner full pension along with other service and monetary benefits, within a period of eight (8) weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index:Yes/No
Neutral Citation:Yes/No
Speaking order:Yes/No
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N.MALA,J.

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