
(2013) 07 MAD CK 0314

In the Madras High Court

Case No : Writ Petition No. 20405 of 2013 and M.P. No's. 1 and 2 of 2013

M. Raja

APPELLANT

Vs

The District Collector, Thiruvarur District, C. Natarajan, IAS
and A. Shanthi

RESPONDENT

Date of Decision : 26-07-2013

Acts Referred:

Citation : (2013) 07 MAD CK 0314

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : P. Vijendran, for the Appellant; V. Subbiah, Spl. G.P. for R1 and R2
and Mr. R. Ravichandran for R3, for the Respondent

Final Decision : Dismissed

Judgement

D. Hariparanthaman, J.—The petitioner is working as Deputy Block Development Officer, Mannargudi Block, Thiruvarur District from 16.5.2013. While so, he was placed under suspension by the impugned order dated 18.7.2013 passed by the first respondent on the ground that an enquiry into grave charges is contemplated against him. The petitioner has filed this Writ Petition to quash the said order.

2. The learned counsel for the petitioner has vehemently contended that the order was passed mala fide by the first respondent since the petitioner filed cases against the first respondent in W.P. Nos. 9360 of 2011, 20732 of 2011 and 13833 of 2012. It is stated that in the affidavits filed in support of those Writ Petitions, he has made allegations against the first respondent. Hence, the impugned suspension order was passed with mala fide intention.

3. Secondly, it is submitted that the petitioner has not committed any grave charges. He joined service as Deputy Block Development Officer on 16.5.2013. He has done tremendous work in TNSLRM Scheme in Mannargudi Block. Hence, there is no necessity for conducting the enquiry into grave charges against him.

4. Thirdly, it is submitted that he was selectively placed under suspension, while the officer, who served in the post before 16.5.2013 was not proceeded with. He has relied on the judgment of the Apex Court in K. Sukhendar Reddy Vs. State of Andhra Pradesh and Another,

5. I have considered the submissions made by the learned counsel for the petitioner.

6. The first submission of the learned counsel for the petitioner is that since he filed cases in W.P. Nos. 9360 of 2011, 20732 of 2011 and 13833 of 2012, the first respondent has passed the impugned order of suspension with mala fide intention.

7. I am not inclined to agree with the submission made by the learned counsel for the petitioner since there is no nexus with the aforesaid Writ Petitions and the impugned order. Those Writ Petitions were filed long back. In fact, the petitioner was given promotion after filing of those Writ Petitions as Deputy Block Development Officer on 13.5.2013. Hence, the submission made by the learned counsel for the petitioner that the first respondent has acted with mala fide intention by issuing the suspension order for filing those Writ Petitions, has no substance. Hence, the said contention is rejected.

8. Secondly, the learned counsel for the petitioner has submitted that the petitioner has not committed any grave charges. He rendered the best service after he joined duty on 16.5.2013. Hence, there cannot be any enquiry into grave charges.

9. At this juncture, it is relevant to extract Section 17(e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and it reads as follows:

Rule 17(e) Conditions under which a member of a Civil Service be placed under suspension:

(e) (1) A member of a service may be placed under suspension from service, where

(i) an enquiry into grave charges against him is contemplated, or is pending; or

(ii) a complaint against him of any criminal offence is under investigation or trial and if such suspension is necessary in the public interest.

(2) A Government servant who is detained in custody whether on a criminal charge or otherwise, for a period longer than forty-eight hours shall be deemed to have been suspended under this Rule

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant under suspension is set aside in appeal or an review under these rules and the case is remitted for further inquiry or action or with any other directions the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal,

removal or compulsory retirement and shall remain in force until further orders.

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government Servant is set aside or declared or rendered void in consequence of or by a decision of a Court of law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed the Government servant shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court of law has passed an order purely on technical grounds without going into the merits of the case.

The petitioner is placed under suspension by invoking the said Rule and the said Rule provides for placing the petitioner under suspension on an enquiry into grave charges.

10. The second submission made by the learned counsel for the petitioner also deserves to be rejected since it is not known to the petitioner, as to what are all the materials based on which disciplinary action is initiated against him. Only the suspension order is issued by the impugned order dated 18.7.2013. Immediately, on the service of the same, the petitioner has rushed to this Court without waiting for the issuance of any charge memo. Only if a charge memo is issued, then it could reveal the nature of the charges and the materials on which charges were framed. In such an event, he could make his submissions that the charges are not grave and therefore there is no necessity to keep him under suspension. At this juncture, I am of the view that the submission made by the learned counsel for the petitioner is premature and the same cannot be entertained.

11. Third submission is that he is selectively chosen for placing under suspension. According to the learned counsel for the petitioner, the impugned action is discriminatory.

12. According to the learned counsel for the petitioner, if at all there is a dereliction of duty and grave charges could be made, it could be made only against the person, who served in the place of the petitioner before 16.5.2013.

13. The learned counsel for the petitioner has also relied on the decision of the Supreme Court in K. Sukhendar Reddy Vs. State of Andhra Pradesh and Another,

14. I am not able to appreciate the submission made by the learned counsel for the petitioner, since it is not the case of the petitioner that both the petitioner as well as another person involved in the commission of certain act and the petitioner alone is proceeded against, while the other person is left out. The petitioner is posted in the place of the other person only from 16.5.2013 as Deputy Block Development Officer. He cannot now contend that action shall be

taken against the person, who was holding the office prior to his posting, otherwise the action against the petitioner is bad.

15. In the judgment relied on by the learned counsel for the petitioner, several I.A.S. Officers were involved in a criminal case, but the appellant therein alone was placed under suspension and in those circumstances, the Apex Court has ruled that there cannot be discrimination in the matter of suspension.

16. In my considered view, the said judgment cannot be applied to the facts of the present case for the reasons stated above.

17. In the result, the Writ Petition fails and the same is liable to be dismissed.

18. However, I am inclined to direct the second respondent to conclude the disciplinary proceedings by issuing a charge sheet, seeking explanation and after getting explanation, decide as to whether it is necessary to hold enquiry and if the first respondent is of the view that the enquiry is necessary, an enquiry may be held and all opportunities shall be given to the petitioner and thereafter after getting report of the enquiry officer, the petitioner shall be given a copy of the same and his views shall be obtained and thereafter final order shall be passed. The first respondent is directed to conduct the aforesaid exercise and conclude the disciplinary proceedings within a period of six months from the date of receipt of a copy of this order. The Writ Petition is dismissed with the above observation. No costs. The connected Miscellaneous Petitions are closed.