

(2010) 03 MAD CK 0009

In the Madras High Court

Case No : W.A. No. 1478 of 2008 and 266 of 2009

State of Tamil Nadu

APPELLANT

Vs

T. Ranganathan
T. Ranganathan Vs State of Tamil Nadu

RESPONDENT

Date of Decision : 05-03-2010

Acts Referred:

Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 — Rule 17, 9(A)
Tamil Nadu Government Business Rules, 1978 — Rule 35(1), 35(4)

Citation : (2010) 2 LW 867

Hon'ble Judges : N. Paul Vasanthakumar, J; Elipe Dharma Rao, J

Bench : Division Bench

Advocate : K. Ramasamy A.A.G A./b., G. Desingu, Special Govt. Pleader in in W.A. 1478/2008 and R. Parthiban, W.A. 1478/2008, N. Vijay Narayan, for R. Parthiban, in W.A. 266/2009, for the Appellant; N. Vijay Narayan, for R. Parthiban in W.A. 1478/2008 and K. Ramasamy Addl. AdvocateGeneral A./b., G. Desingu, Special Govt. Pleader in W.A. 266/2009, for the Respondent

Judgement

N. Paul Vasanthakumar, J.—W.A. No. 1478 of 2008 is preferred by the State of Tamil Nadu against the order of the learned single Judge

made in W.P. No. 714 of 2005 and W.A. No. 266 of 2009 is preferred by the Respondent in W.A. No. 1478 of 2008 against the order made in

W.P. No. 853 of 2005 wherein the prayer in the writ petition to quash the charge memo was rejected.

2. Both the writ petitions, filed by the Appellant in W.A. No. 266 of 2009, were heard together by the learned single Judge and common order

was passed on 13.6.2008. Hence these writ appeals are also disposed of by this common judgment.

3. For the purpose of convenience, the parties in this common judgment will be referred to as "the Petitioner" and "Department".

4. The case of the Petitioner before the learned single Judge was that he was appointed on 21.9.1974 as Junior Assistant (now re-designated as Assistant) in Municipal Administration and Water Supply Department through the Tamil Nadu Public Service Commission. He was promoted as Assistant Section Officer on 14.3.1977 and as Section Officer on 27.3.1993. As on date, the Petitioner has put in 35 years of service. The Petitioner is serving as Section Officer in Adi Dravidar and Tribal Welfare Department with effect from 1.7.1996 and according to the Petitioner, the said department is the Disciplinary Authority. However, the first Respondent viz., the P&AR Department framed a charge against the Petitioner by letter dated 25.6.2001 alleging that the Petitioner failed to discharge his legitimate duty as Section Officer, while dealing with 27 cases of NM Rs, who were working in various municipal Offices and Corporations in the State of Tamil Nadu and caused issuance of orders of appointment for various posts by relaxing the rules, even without ascertaining the genuineness of the candidates and without following the procedures laid down in the Tamil Nadu Government Business Rules, the Secretariat instructions, and the Secretarial Office Manual.

5. The Petitioner objected the said charge with regard to the jurisdiction aspect by stating that the P&AR Department has no jurisdiction to frame charge under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, as it is neither the Appointing Authority nor the Disciplinary Authority, and even if the allegations are to be treated as true, no commission or omission is made out. The Petitioner submitted his defence statement under protest on 20.8.2001 and contended that the incident took place in the year 1995 and thus mere is inordinate delay in framing the charge. The Petitioner also submitted further representations including the objection with regard to the jurisdiction on 31.12.2001, 22.3.2003, 23.9.2003, 26.2.2003, 21.4.2003 and 5.3.2003. The Petitioner thereafter filed O.A. No. 1535 of 2003 and prayed for a direction to the P&AR Department to finalise the disciplinary proceeding initiated and the Tribunal by order dated 20.4.2003 directed the P&AR Department to complete the proceedings initiated in letter dated 25.6.2001, within a period of four months from the date of receipt of a copy of the order. The said order was communicated to the Secretary, P&AR Department on 5.5.2003.

6. The P&AR Department, by letter dated 13.10.2004, called for eligible and qualified Section Officers for promotion as Under Secretary to the Government. The Secretary, Adi Dravidar and Tribal Welfare Department, recommended the name of the Petitioner also, as there was no charge pending as on 1.7.1996 and as no charge was framed against the Petitioner by the Department till that date. Since the Petitioner's due promotion was not considered in view of the pendency of the 17(b) charge issued by the P&AR Department, he filed WP. No. 714 of 2005 and prayed for issuing a writ of mandamus directing the Secretary, P&AR Department, to include his name in the panel for promotion for the post of Under Secretary to Government, prepared on 13.10.2004.

7. The writ Petitioner also filed WP. No. 853 of 2005 and challenged the charge memo dated 25.6.2001 issued by the P&AR Department on the ground of jurisdiction, competency, delay, etc., by contending that the P&AR Department has no jurisdiction to frame the charge and even assuming it has got jurisdiction, the Tamil Nadu Administrative Tribunal, having issued direction in O.A. No. 1535 of 2003 by order dated 20.4.2003 to complete the proceedings within a period of four months, in spite of expiry of 19 months in toto and 15 months after the time granted by the Tribunal was over, the proceeding was not finalised and therefore the P&AR Department has no jurisdiction to continue with the charge memo and proceed further, as no extension of time was applied for or obtained from the Tribunal.

8. This Court granted interim stay of the charge memo on 22.6.2005, taking note of the fact that no instruction was given by the P&AR Department and non-filing of counter affidavit and as such there was no impediment for the P&AR Department to proceed with the enquiry and pass final orders till the date of grant of stay.

9. The P&AR Department filed counter affidavit by contending that during 1995-96 large scale irregular appointments numbering 400 NM Rs in various Municipalities and Municipal Corporations to the posts of Bill Collectors, Record Clerks, Assistants, Junior Assistants, etc., were unearthed by the Municipal Administration and Water Supply Department. It was revealed that appointments were made after receiving Rs. 10,000/- to Rs. 20,000/- as gratification from each candidate and therefore

enquiry was conducted by the Director of Vigilance and Anti Corruption, who sent a report stating that the acceptance of gratification had not been proved and it recommended departmental action against the persons responsible. Based on the said report, the Officers involved in the irregularities ranked from Assistant Section Officer to the level of Secretary to Government during the said period were proceeded departmentally. The P&AR Department having overall control of all other departments, issued the charge memo to the officials, including the Petitioner, who was Section Officer then. The posts of Deputy Secretary to the Government and above, come under the control of the Chief Secretary to the Government and as per the Chief Minister's Standing Order No. 8, dated 17.1.1997, the Secretary, P&AR Department, is the Disciplinary Authority for the post of Under Secretary to the Government. In such circumstances, it was decided to take disciplinary action against the concerned persons by the Secretary, P&AR Department invoking the provisions of Rule 9A of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The Chief Minister is empowered to delegate his powers under Rule 35(4) of the Tamil Nadu Business Rules, which is conferred to the Chief Minister under Rule 35(1)(a) of the Tamil Nadu Business Rules.

10. The Petitioner has filed a reply affidavit and after hearing the arguments of the respective counsel, the learned single Judge by common order dated 13.6.2008 dismissed W.P. No. 853 of 2005, which was filed challenging the charge memo, and allowed W.P. No. 714 of 2005, which was filed seeking promotion. As against the order passed in W.P. No. 714 of 2005 the Department filed W.A. No. 1478 of 2008 and as against the order in W.P. No. 853 of 2005 dismissing the challenge made to the charge memo, the Petitioner filed W.A. No. 266 of 2009.

11. Mr. K. Ramasamy, learned Additional Advocate General argued that the charge memo having not been quashed and the charge having been framed under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, promotion to the Delinquent Officer cannot be granted as there is a bar as per G.O. Ms. No. 368 P&AR Department, dated 18.10.1993 and Government Letter issued in Letter Ms. No. 248 P&AR Department dated 20.10.1997, and that, the order of the learned single

Judge in giving direction to give promotion to the writ Petitioner is unsustainable.

12. Mr. N. Vijay Narayan, learned Senior Counsel appearing for the Petitioner submitted that the writ petition in W.P. No. 853 of 2005 filed to

quash the charge memo, is bound to be allowed on the ground of lack of jurisdiction, after the expiry of the time granted by the Tribunal as time

granted was over as early as in September, 2003, and no extension of time was sought for before the Tribunal or before this Court by the

Department and without getting time extension to complete the enquiry and to pass final orders, the Secretary, P&AR Department, has no

jurisdiction to proceed further and after the expiry of the time granted by the Tribunal, the charge is bound to be treated as automatically lapsed.

The learned Senior Counsel also submitted that no allegation is made by the Department that the Petitioner is in any way responsible for the delay

in complying with the directions of the Tribunal in completing the enquiry and passing final orders. The learned Senior Counsel further submitted

that the charge is relating to the year 1995 and the charge memo was issued in June 2001 and therefore there is unexplained delay of over six years

in issuing the charge memo and till 2005 there was no impediment to pass final orders by completing the enquiry. Only in June, 2005, this Court

granted interim stay of further proceedings and therefore the delay on the part of the first Respondent not only in issuing charge memo, but also in

not completing the enquiry, has vitiated the entire proceedings. The Petitioner will be put to prejudice if the charge memo is further allowed to be

proceeded with. The learned Senior Counsel also disputed the competency of the P&AR Department in issuing the charge memo and even if the

charge is maintainable, only the Department of Adi Dravidar and Tribal Welfare is competent to issue the charge memo.

13. We have considered the rival submissions made by the learned Counsel for the respective party.

14. The issues arise for determination in these writ appeals are as follows:

Issue No. 1: Whether the charge memo issued to the Petitioner on 25.6.2001 by the first Respondent is maintainable after the time granted by the

Tribunal expired, without any extension of time applied for by the Secretary, P&AR Department.

Issue No. 2: Whether the Petitioner is justified in raising the point of delay in issuing the charge memo and completion of the enquiry.

Issue No. 3: Whether the learned Judge is right in allowing the writ petition filed seeking promotion.

15. Issue No. 1: The charge alleged against the writ Petitioner in the impugned charge memo dated 25.6.2001 reads as follows:

Thiru. T. Ranganathan, while working as Section Officer in M.E.III Section to Municipal Administration and Water Supplies Department, during

the year 1995, has failed to discharge his legitimate duties as Section Officer and examined properly in dealing with 27 cases of NM Rs who were

working in various Municipal offices and Municipal Corporations in Tamil Nadu and caused the issuance of orders appointing them as Works

Inspector/ Town Planning Inspector/ Junior Engineer/ Cleaner/ Electrician Grade-II/ Building Inspector/ Water Works Overseer/ Pipeline Fitter

Grade-II, in relaxation of rules even without ascertaining the genuineness of the candidates, non-availability of similarly placed candidates in the

Department by getting necessary proposal or report from the authorities concerned and following the procedures laid down in the Tamil Nadu

Government Business Rules, Secretariat Instructions and the Secretariat Office Manual, while examining the proposals at Secretariat level.

In the charge memo it is stated that while the Petitioner served as Section Officer in ME-in Section in Municipal Administration and Water Supplies

Department during the year 1995, he failed to discharge his duties and not properly examined in dealing with 27 persons, who worked as Nominal

Muster Roll Employees and put a note, which caused the issuance of orders appointing them by relaxing the rules.

16. The learned Senior Counsel appearing for the Petitioner submitted that all the alleged irregular appointments are continued and the persons

appointed are also given promotions and they are in service as on today. The Petitioner in his reply to the charge memo, apart from raising

jurisdictional issue, has stated that he is not responsible for issuing the appointment orders and the respective Commissioner of Municipalities

issued the appointment orders and the Secretariat issued orders after getting approval from the authorities concerned. The Petitioner submitted his

reply in August, 2001, and an Enquiry Officer was appointed on 21.12.2001. The Enquiry Officer so appointed for the first time having retired,

another Officer was appointed, who also retired, and hence third Enquiry Officer was appointed after two years. Till April, 2003, there was no

progress in the departmental enquiry, except the appointment of Enquiry Officer.

17. Due to the delay in finalising the disciplinary proceeding, the Petitioner filed O.A. No. 1535 of 2003 before the Tamil Nadu Administrative

Tribunal and prayed for a direction to the Secretary, P&AR Department, to dispose of the disciplinary proceedings and to pass final orders. After

hearing the arguments of the learned Standing Counsel on behalf of the Department, and taking note of the entire facts on record, including the date

of the charge memo, submission of explanation, appointment of enquiry Officer and the prejudice caused due to the delay in non-disposal of the

disciplinary proceeding, the Tribunal by order dated 28.4.2003 passed an order issuing direction to the Department to take up enquiry and pass

final orders within a period of four months. The said order copy along with representation was sent to the Secretary, P&AR Department on

5.5.2003, and as such the order was communicated by the Petitioner, who is also working in the Secretariat, Adi Dravidar and Tribal Welfare

Department. The said fact is not denied by the Department either in the counter affidavit filed before the learned single Judge or before us.

18. It is an admitted fact that no application seeking extension of time stating any reason, much less genuine reason, was filed by the Department

before the Tamil Nadu Administrative Tribunal to complete the enquiry and to pass final orders. Even after the abolition of the Tamil Nadu

Administrative Tribunal, the Department has not approached this Court by filing appropriate petition. From the records it is evident that the

Petitioner waited till 10th December, 2004, and no progress having been made by the Department and the Petitioner having been denied

promotion due to the pendency of the charge memo, he challenged the charge memo in W.P. No. 853 of 2005, in which initially notice alone was

ordered by this Court.

19. On 22.6.2005, taking note of the repeated time granted by this Court from March, 2005, to get instructions and to report the stage of the

enquiry and no instruction having been received, this Court granted interim stay in WMP No. 941 of 2005. Thus, it is evident that from 5.5.2003

to 22.6.2005, for more than two years, no final order was passed, even though

the time granted by the Tribunal was over as early as in September, 2003.

20. The learned Additional Advocate General, at the time of argument submitted that till date no final order is passed, even though enquiry is completed and no application seeking extension of time to pass final order was filed either before the Tribunal, or before this Court, after abolition of the Tribunal. In such circumstances, we have to necessarily consider whether the Respondents in the writ petition have got jurisdiction to proceed with the enquiry beyond the time fixed by the Tamil Nadu Administrative Tribunal, to complete the enquiry and pass final orders. Four months time was fixed by the Tribunal taking note of the nature of the charge, the date of issuance of the charge memo, submission of explanation, appointment of enquiry officer, and the prejudice caused to the Petitioner due to the delay in passing the final orders.

21. It is well settled in law that once a competent Court fixes an outer time limit to complete the enquiry and pass final orders, the parties to the proceedings are bound to strictly adhere to the time granted to comply with the said order. If on any reason the time fixed by the competent Court is unable to be adhered to and the proceedings are unable to be finalised, the party to the proceedings can approach the very same Court seeking extension of time stating sufficient reasons and once valid reasons are given, normally the Court/Tribunal would extend the time, depending upon the facts and circumstances of the case. Admittedly the said procedure has not been followed in this case and the department has chosen to ignore the direction given by the Tribunal, which is binding on them.

22. (a) Similar issue arose before the Honourable Supreme Court in SLP No. 2103 of 1987 and the Supreme Court considering the time fixed in similar case, refused to grant permission to continue with the disciplinary proceeding, even though in the said case, factually after the retirement of the person concerned. The operative portion of the order dated 1.9.1989 reads as follows,

The Central Administrative Tribunal, Allahabad Bench by its order dated 1.8.86 directed:

In the result we order that the disciplinary case against the Petitioner, charge sheet for which was given to him on 22.9.83 i.e., more than two years

back should be finalised within a period of six months and depending on the results of the same and pending dues, promotion if any and any of the

reliefs that he has asked and to which he becomes eligible may be given to him within a month thereafter including reimbursement of expenditure for

attending the enquiry after his retirement. The administration will keep in mind the delays in payments made to him and any interest charges that

may become due on account of delayed payments for which he is not responsible may also be paid to him at the rate of 15% per annum

Then direction of the Tribunal in this SLP has not been stayed, and therefore, remained operative. As the steps envisaged in the order of the

Tribunal were not completed and the Respondents wanted the benefit under the order of the Tribunal, the Administration was called upon to

finalise the proceedings. It is stated that on 5.5.88 a cut in the pension to the extent of 30% was recommended and the recommendation has

remained with the appropriate authorities for more than a year and three months to be dealt with one way or the other. Several adjournments were

granted in this Court to get the finalisation of the proceedings and in spite of repeated adjournments on each adjourned date the counsel for the

Union of India has been stating that the matter would soon be finalised.

When the matter is taken up today, counsel for the Union of India still indicates that no final orders have been obtained.

We find that the tribunal has not quantified the claims of the employee. In the circumstances, it is difficult for us to indicate what exactly are the

dues to which he has become entitled. The matter shall go back to the Tribunal for computation of the exact dues and the Tribunal is directed to do

the same within three months from today, if necessary after hearing the parties.

In view of the fact that mandatory direction of the Tribunal that the disciplinary proceedings which were then pending should be completed within

six months and more than three years and one month have passed by now and the proceedings have not been completed, we quash the

proceedings. An employee after retirement cannot be harassed by continuing a disciplinary action of this nature. The Tribunal while disposing of the

matter had taken note of the fact that the proceedings had been initiated after the retirement and more than two years had passed by then and yet it

had not been finalised. Taking that aspect into consideration, the direction to

complete the proceedings within six months had been given. This should have been sufficient warning to the administration for early disposal of the proceedings. This is why justice demands the quashing the proceedings. There will be no order as to costs.'" (Emphasis Supplied)

(b) One of us (N. Paul Vasanthakumar, J.) had an occasion to consider similar issue in the decision reported in Dr. N. Shahida Begum Vs. State of Tamil Nadu, and in W.P. No. 31317 of 2004, etc., order dated 12.12.2008 (M. Xavier v. State of Tamil Nadu and Anr. W.P. No. 31317 of 2004) and allowed similar prayers and held that after expiry of the time, without extension of time granted by the Tribunal, the proceedings cannot be continued.

(c) In the Division Bench judgment reported in B. Krishnan Vs. Tamilnadu Water Supply and Drainage Board, , presided over by one of us (Eliphe Dharma Rao, J.), similar issue was considered as to whether the department can proceed further if the enquiry was not completed within the stipulated time in spite of rejection of the petition seeking extension of time. It is held therein that the department cannot proceed further as the time limit granted originally and extended subsequently, got expired. Paragraphs 6 and 7 of the said judgment can be usefully referred to which read as follows:

6. Heard the learned Counsel for both sides and perused the records. It is clear that when the Petitioner was working as an Executive Engineer at Ooty, on the basis of the audit report for the year 1981-82 to 1987-88, disciplinary proceedings were initiated and he was placed under suspension on 02.09.1988 for the irregularities committed by him. When they failed to complete the enquiry, he approached this Court by filing W.P. No. 19276 of 1992 and it was disposed of with a direction to complete the enquiry within a period of three months and when it was not complied with, a petition for extension of time was filed and the same was rejected, directing to reinstate him. Thereafter, he was reinstated by order dated 12.03.1993 as Deputy Superintending Engineer. After lapse of two years, when his retirement was due on 31.05.1995, the Respondents revived the proceedings and placed him under suspension on 29.05.1995. Simultaneously another order was issued not permitting him to retire in view of the criminal investigation by Directorate of Vigilance &

Anti-corruption. One Enquiry Officer was appointed on 30.11.1996 but orders were not passed. Hence, he was constrained to file W.P. No. 1247 of 19% and this Court granted time to complete the enquiry within three months, which was not complied with. Thereafter, time was extended to pass a final order on the ground that enquiry shall be completed within one month. Even then no orders were passed and the second Enquiry Officer was appointed and when further time was prayed, this Court has refused to grant the same. Therefore, when once the Court has refused to extend the time for completion of enquiry, the Petitioner filed the contempt petition for non-compliance of the order dated 26.11.1997 passed in the miscellaneous petition filed in W.P. No. 1247 of 19%. The learned Judge, while closing the contempt petition, allowed the writ Petitioner to peruse the records and submit his explanation within the period as stated in para 11 of the affidavit and the Respondents are directed to pass a final order.

7. Accordingly, the Respondents passed the impugned order, which, in our considered view, is without any authority and is liable to be set aside on the ground that when this Court refused to extend the time for completing the enquiry for the alleged irregularities committed by him during the period from 1981-82 to 1987-88 when he was working as Executive Engineer, Ooty (on the basis of the audit report) and by virtue of the orders passed by this Court, he was reinstated and even though time was granted to complete the enquiry, they failed to complete the same.....

(d) Before the Division Bench of the Bombay High Court also similar issue was raised and the Division Bench in the decision reported in Ramrao

Ramchandra Datir Vs. State of Maharashtra and Another, held that the department cannot proceed further with the charge memo. In paragraphs 6 to 8 it is held thus,

6..... In the instant case, it is not in dispute that the first charge-sheet dated March 10, 1986 consisted of eight charges. The Petitioner has challenged the validity of the same in Writ Petition No. 598 of 1986 and this Court on March 24, 1986 permitted the Petitioner to withdraw the petition by specifically observing that the enquiry should be completed and the report to be submitted not later than June 15, 1986. The application for extension of time to complete the enquiry was dismissed vide order dated

August 14, 1986. On the backdrop of these undisputed facts, it was incumbent on the Respondent to complete the enquiry and submit the report of such enquiry on or before June 15, 1986. Since the Respondent failed to complete the enquiry within the stipulated period, the right to proceed with the enquiry after June 15, 1986 came to an end, consequently, the enquiry so initiated vide charge-sheet dated March 10, 1986 stands vitiated after June 15, 1986.

7. In the instant case, the Respondents have evolved a novel method for conducting the departmental enquiry against the Petitioner by issuing fresh charge-sheet dated August 9, 1988 wherein the alleged charges which are framed against the Petitioner are totally identical with that of the charges framed in earlier charge-sheet dated March 10, 1986 and the misconduct which is alleged is also the same, which was part and parcel of the earlier charge-sheet dated March 10, 1986. The fact that the charges are identical in nature is not disputed by the Respondent Similarly, the list of documents and list of witnesses relied on by the Respondent for proving the charges in the second charge-sheet are also identical in nature with that of relied on by the Respondent for first charge-sheet dated March 10, 1986. On the backdrop of the above referred facts, it is evident that the Respondent, by virtue of this exercise, wants to reopen the case of departmental enquiry against the Petitioner on the same set of facts and for the same misconduct which, in our considered view, is not permissible in law.

8. As we have already observed hereinabove, after June 15, 1986, the Respondent lost the legal right to proceed with the departmental enquiry against the Petitioner by virtue of the specific order dated March 24, 1986 passed by this Court in Writ Petition No. 598 of 1986 and therefore, the question of starting new enquiry by fresh charge-sheet dated March 9, 1988 on the same set of charges and for the same misconduct, does not arise.

(e) The Honourable Supreme Court in the decision reported in 2007 (6) S 97 (The Commissioner, Karnataka Housing Board v.C. Muddaiah 2007 (6) S 97) held that once a direction is issued by a competent Court, it has to be obeyed and implemented without any reservation. In paragraph 31 it is held thus,

31. We are of the considered opinion that once a direction is issued by a

competent Court, it has to be obeyed and implemented without any reservation. If an order passed by a Court of Law is not complied with or is ignored, there will be an end of Rule of Law. If a party against whom such order is made has grievance, the only remedy available to him is to challenge the order by taking appropriate proceedings known to law. But it cannot be made ineffective by not complying with the directions on a specious plea that no such directions could have been issued by the Court.

In our judgment, upholding of such argument would result in chaos and confusion and would seriously affect and impair administration of justice.

The argument of the Board, therefore, has no force and must be rejected.

23. We are conscious of the fact that if there is non-cooperation of the delinquent officer to comply with the time limit fixed by the Court/Tribunal

to complete the enquiry and pass final orders in disciplinary proceedings, the Department cannot be blamed. In such contingency it is for the

Department to point out the non-cooperation on the part of the delinquent officer in finalising the proceeding and the hardships faced by the

Department in not strictly adhering to the time schedule due to the fault of the delinquent officer or for any valid reason and get appropriate orders

seeking extension of time. At this juncture, it is relevant to point out that even if the time granted originally to complete the enquiry is over, nothing

prevented the Department from filing appropriate application after expiry of the time. It is now well settled in law that application seeking extension

of time can be filed and the Court are having inherent powers to grant further time, even though the original time granted got expired, based on the

principles of invoking inherent powers to meet the ends of justice. In this case, there is no whisper about the non-cooperation of the Petitioner in

conducting the enquiry and completing the enquiry within the time. Hence the Department is bound to comply with the directions issued by the

Tribunal in O.A. No. 1535 of 2003.

24. Issue Nos. 2 & 3: In view of the findings arrived at by us for Issue No. 1, issue No. 3 is answered in the affirmative and issue No. 2 need not

be decided as the same is unnecessary.

25. Having regard to the nature of the allegations levelled against the Petitioner as well as the non-compliance of the order of the Tribunal by the

Department; the mental agony and hardships faced by the Petitioner in this case

from the year 2001; having regard to the fact that the Petitioner is due to retire from service on 30.4.2010 on attaining the age of superannuation; taking into consideration the dropping of similar charge framed against one R. Indirani Naidu, Section Officer, Municipal Administration and Water Supply Department, on the same day, for the same lapse under Rule 17(b), by the first Respondent by issuing G.O.(3D) No. 15 P&AR Department dated 21.12.2005; and in view of the fact that against some of the higher officials the charges having been disposed of by issuing Censure, we hold no useful purpose will be served in continuing with the proceedings against the Petitioner alone. Therefore, we are constrained to quash the impugned charge memo and allow W.P. No. 853 of 2005.

26. In fine, WP. No. 853 of 2005 filed by the writ Petitioner is allowed and the order of the learned single Judge insofar as the said writ petition is set aside and W.A. No. 266 of 2009 is allowed. On analysis of the entire materials placed on record, we are able to see that relying on a wrong provision of law, disciplinary proceedings have been initiated against the Petitioner and enquiry was proceeded with against the Petitioner, as a result of which, he has been deprived of his right to promotion, for no fault of him. Though the Secretary to the Government has strongly recommended the promotion of the Petitioner by his communication dated 23.5.2007, the same was not considered, thus causing mental and physical harassment to the Petitioner, for which we feel the ends of justice would be met by awarding appropriate compensation to the Petitioner and hence we award a compensation of Rs. 50,000/- to be paid by the Secretary, P&AR Department, Government of Tamil Nadu, to the Petitioner, within a period of four weeks from the date of receipt of a copy of this order. In view of quashing of the charge memo, the promotion ordered by the learned single Judge by allowing W.P. No. 714 of 2005 is confirmed and W.A. No. 1478 of 2008 filed by the Department is dismissed. No costs.