
(2009) 09 MAD CK 0317

In the Madras High Court

Case No : Writ Petition No. 36231 of 2006 (O.A. No. 6108 of 1998)

T. Rangasamy

APPELLANT

Vs

The Govt. of Tamil Nadu

RESPONDENT

Date of Decision : 29-09-2009

Acts Referred:

Tamil Nadu Municipal Services (Discipline and Appeal) Rules, 1970 — Rule 8(2)

Citation : (2009) 09 MAD CK 0317

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : Umapathy, for K. Kalyani, for the Appellant; R. Neelakantan, G.A. for R1 and R2 and P.I. Thirumoorthy, for R3, for the Respondent

Final Decision : Allowed

Judgement

K. Chandru, J.—The petitioner was working as a Revenue Officer in the third respondent Municipality. He filed O.A. No. 6108 of 1998 before the Tamilnadu Administrative Tribunal, seeking for a direction to set aside the order of the first respondent dated 20.03.1998 made in G.O.D 141 Municipal Administration & Water Supply (MF.IV)(1) Department.

2. By the impugned order, the petitioner was inflicted with a punishment of stoppage of increment for a period of one year with cumulative effect. Even at the time of filing of the Original Application, the petitioner was 53 years old and would have reached the age of superannuation during the year 2003 itself in the normal course. Pending the Original Application, the petitioner did not have the benefit of any interim order.

3. In view of the abolition of the Tribunal, the matter stood transferred to this Court and was re-numbered as W.P. No. 36231 of 2006.

4. On notice from the Tribunal, the Additional Director of Municipal Administration has filed a reply affidavit dated 30.09.1999 on behalf of the second respondent.

5. It is not clear as to how the said reply affidavit was filed, which was contrary to the records produced. In paragraphs 15 and 16, it was averred as follows:

15. ...Even though he has not signed the supply order or the payment voucher, but when the file is routed through him he should pointed out to the Municipal Commissioner regarding the public health stock to be purchased.

16. ...In as much as the concern file was routed through the applicant, he should share the responsibility and he along with others are severely and jointly held responsible for the lapses.

6. It is seen from the file that a charge memo was framed against the petitioner under Rule 8(2) of the Tamilnadu Municipal Service (D & A) Rules, 1970. An enquiry was ordered to be conducted by the Regional Director of Municipal Administration. The Enquiry Officer found that the petitioner was guilty of only charge No. 2 and the other charges namely, Charges 1, 3 to 7 were not proved. Instead of supplying a copy of the report and calling for explanation, the second respondent issued a proceedings dated 01.07.1997 disagreeing with the report of the Enquiry Officer. He held that except Charge No. 5, Charges 1 to 4 and Charges 6 to 7 were proved. The petitioner was asked to give his explanation. The petitioner gave his explanation dated 30.07.1997.

7. The file relating to the petitioner's enquiry was forwarded to the State Government. The State Government by G.O.D 141 Municipal Administration & Water Supply dated 20.03.1998 one again disagreed with the Enquiry Report given by the Regional Director of Municipal Administration as well as the proceedings of the second respondent and held that Charges 1,2,3,6 and 7 were proved and Charges 4 and 5 were not proved. It is not clear as to how each of the authority had disagreed with the earlier finding. Before disagreeing such a finding, no prior notice was given to the petitioner. The notice that was contemplated was not after disagreement but before disagreement.

8. In the present case, if the Government wants to go by the second respondent's proceedings dated 01.07.1997, in which case, the second respondent has found the petitioner not guilty of Charge No. 5, whereas the Government did not find guilty of Charge Nos. 4 and 5. There seems to be an attempt to somehow hold the petitioner guilty of misconduct so that punishment can be imposed on him. There is no controversy in the proceedings issued by the respondents.

9. On the contrary, the counter affidavit filed on behalf of the respondents dated 30.09.1999, clearly shows that the files were only routed through the petitioner and he was not author of any of the decision taken by the respondents. In the absence of other persons who are responsible for placing such orders also being proceeded, there is no question of imposition of punishment only on the petitioner.

10. In the light of the above, the writ petition stands allowed. In case if the

petitioner already retired from service, the amounts already recovered, if any, the respondents are directed to refund the amount within a period of three months from the date of receipt of a copy of this order and also calculate the pension as if there is no punishment imposed on him. No costs.