(2009) 06 MAD CK 0235

In the Madras High Court

Case No : Writ Petition No. 48406 of 2006 and O.A. No. 336 of 2001

V. Venkatesan — APPELLANT

Vs

Principal Commissioner and Commissioner of Revenue Administration, District Revenue Officer and Revenue Divisional Officer — RESPONDENT

Date of Decision : 24-06-2009

Acts Referred:
Constitution of India, 1950 — Article 226
Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 — Rule 17

Citation : (2009) 06 MAD CK 0235

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

Advocate : S. Ilamvaludhi, for the Appellant; Dhakshayani Reddy, Government Advocate (R1 to R3), for the Respondent

Judgement

M. Jaichandren, J.—Heard the learned Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

2. The petitioner had entered into service, as a Village Administrative Officer, in the revenue unit of Dharmapuri in the year, 1984, and continued as such till the end of the year, 1997. When he was serving as the Village Administrative Officer of Sigaravahalli Village in Pennagaram Taluk, Dharmapuri District, a charge memo in Na.Ka. No. 2072/97/E1, dated 24.3.1997, had been issued by the Revenue Divisional Officer, Dharmapuri, under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules.

3. The following charges were levelled against the petitioner:

Charge-1: By absenting himself from 3.1.96 caused dislocation to the Village Administration.

Charge-2: One who proceeds medical leave, shall apply for leave with Medical Certificate within 7 days. But he submitted his leave application after 27 days.

Charge-3: While holding responsible position, absented himself affecting the Revenue Collection and thereby caused loss to Government.

Charge-4: By absenting without permission, failed in his basic duties as a V.A.O and gave room for public complaint and caused inconvenience to the public.

Charge-5: As he absented himself without permission, posting could not be issued to him and thereby he caused dislocation to Village administration.

Though the petitioner had submitted an explanation to the charges, the Tahsildar, Pennagaram, had been nominated as the enquiry officer to enquire into the charges. After conducting the enquiry, the Tahsildar, Pennagaram, had held that the second and the third charges had been proved. However, the Tahsildar had come to the conclusion that the 1st, 4th and 5th charges levelled against the petitioner had not been proved.

4. The learned Counsel for the petitioner had contended that since the main charge, that the petitioner had absented himself from duty without prior permission, was held as not proved, the other charges, which were consequential in nature, could not have been held as proved. However, the Revenue Divisional Officer, Dharmapuri, in his Pro.Na.Ka.E1/2072/97, dated 30.9.1997, had issued orders imposing the punishment of removal from service on the petitioner. Aggrieved by the said order, the petitioner had preferred an appeal to the District Revenue Officer, Dharmapuri, on 17.1.1998. The District Revenue Officer, Dharmapuri, had rejected the appeal on the ground that no new points had been raised by the petitioner in the appeal requiring fresh consideration. Therefore, the District Revenue Officer had rejected the appeal, confirming the order of removal from service issued against the petitioner by the Revenue Divisional Officer, Pennagaram. In such circumstances, the petitioner has preferred the present writ petition before this Court, under Article 226 of the Constitution of India.

5. The main contentions of the learned Counsel are that the order of the Revenue Divisional Officer, Pennagaram, removing the petitioner from service, cannot be sustained based on the findings of the enquiry by the Tahsildar, Pennagaram, since the Tahsildar, Pennagaram, had held that the 1st, 4th and 5th charges had not been proved and since the 2nd and the 3rd charges were only consequential in nature and that they were connected to the first charge. Once it is found that the first charge has not been proved all the other charges would also fail, as unsustainable in the eye of law. Further, the order of the District Revenue Officer, Dharmapuri, dated 30.4.1998, dismissing the appeal filed by the petitioner, is without proper reasons and it has been passed by the District Revenue Officer without proper application of mind.

6. The learned Counsel had further submitted that it would suffice if this Court is pleased to pass an order setting aside the appellate order of the District Revenue Officer, Dharmapuri, dated 30.4.1998, and if the matter is remitted back to him for reconsideration, on merits.

7. Even though a reply affidavit has been filed denying the claims made by the petitioner, the learned Counsel appearing on behalf of the respondents has no objection for this Court passing an order, setting aside the appellate order of the District Revenue Officer, Dharmapuri, dated 30.4.1998, and for remitting the matter back to him for fresh disposal, on merits, after taking into consideration all the relevant issues raised before him.

8. In view of the submissions made by the learned Counsel appearing on behalf of the petitioner, and on a perusal of the records available, this Court is of the considered view that sufficient reasons have not been shown by the District Revenue Officer, Dharmapuri, in his order, dated 30.4.1998, while confirming the order of the Revenue Divisional Officer, Pennagaram, dated 30.9.1997, removing the petitioner from service.

9. The main contentions raised on behalf of the petitioner have not been sufficiently dealt with by the District Revenue Officer, Dharmapuri, in his order, dated 30.4.1998. In such circumstances, the order of the appellate authority, dated 30.4.1998, made in Pro.Na.Ka.110497/97/A5, is set aside and the matter is remitted back for passing fresh orders, after considering all the relevant issues raised by him, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

The writ petition is allowed to the extent noted above. No costs.

