

(2009) 09 MAD CK 0256

Madras High Court

Case No: Writ Petition No. 38007 of 2006

P. Narayanan

APPELLANT

Vs

The Deputy Secretary to
Government Adi Dravidar and
Tribal Welfare (OP) Department

RESPONDENT

Date of Decision: Sept. 10, 2009

Acts Referred:

- Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 - Rule 17

Hon'ble Judges: K. Chandru, J

Bench: Single Bench

Advocate: S. Ilamvaludhi, for the Appellant; R. Neelakandan, Government Advocate, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

K. Chandru, J.

The petitioner was working as Typist under the respondent. He filed O.A. No. 4428 of 1998 before the Tribunal seeking to challenge the show cause notice dated 26.05.1998 issued by the respondent. By the impugned notice, the petitioner was asked to show cause as to why action should not be taken against him under Rule 17(a) of the Tamil Nadu Civil Service (Disciplinary and Appeal) Rules for his conduct of having sent a representation dated 20.02.1998 to the Secretary to the Government without routing it through the official channel. The Tribunal did not grant any interim order pending disposal of the Original Application. In view of the abolition of the Tribunal, the matter stood transferred to this Court and re-numbered as WP No. 38007 of 2006.

2. In the representation dated 20.02.1998, the petitioner sought for fixation of his seniority. Pursuant to the said representation, the Secretary to Government, Adi

Dravidar and Tribal Welfare Department, by proceedings dated 04.03.1998 informed that the petitioner was assigned seniority number 48 and he was placed below S. Sankari, Typist and above P.M. Araselvi, Typist. The petitioner once again sent a representation dated 26.05.1998 for reconsideration of the said decision to the Government, routing it through the department. Only at that time, the respondent came to know that the petitioner has earlier sent a representation dated 20.02.1998 directly to the Government.

3. When once a representation was sent by the petitioner directly to the Secretary to the Government and the said authority also given a reply, it is not open to the respondent to charge sheet the petitioner on the ground that the attitude of the petitioner in forwarding a representation straightaway to the Government is contrary to the Rules. It is also not clear as to why the petitioner was kept under suspension. In any event, by sending a representation with reference to service grievance to the Secretary to the Government, without routing it through the proper channel, cannot be considered to be so serious warranting disciplinary action by framing charges under Rule 17 (a) of the Tamil Nadu Civil Service (Disciplinary and Appeal) Rules. In the present case, the authority, who dealt with the petitioner's representation was superior authority to the respondent. When the superior authority has no objection to deal with the representation and also did not return the representation to be forwarded through his subordinates, it is unnecessary for the respondent to initiate disciplinary action against the petitioner.

4. In the light of the above said facts, the impugned order is set aside. The writ petition is allowed. However, there is no order as to costs.