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W.A.No.2804 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN**

**W.A.No.2804 of 2024
and
C.M.P.No.20583 of 2024**

1. The Member Secretary / Commissioner
of Revenue Administration,
(Disaster Management and Special Relief Department),
Chepauk,
Chennai - 600 005.
2. The District Collector,
Villupuram District,
Villupuram.
3. The Revenue Divisional Officer,
Thirukovilur,
Villupuram District.

... Appellants

-Vs-

K.Balasubramaniam

... Respondent

PRAYER : Appeal filed under Clause 15 of Letters Patent, to set aside the order in W.P.No.29133 of 2010 dated 29.11.2022 and allow the above writ appeal.



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For Appellants : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mrs.V.Yamunadevi
Special Government Pleader

For Respondent : Mr.K.N.Pandiyan

J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This intra Court appeal has been directed against the order passed by the writ Court dated 29.11.2022 in W.P.No.29133 of 2010.

2. The respondent Balasubramaniam was working as a Revenue Inspector from 1994 at Mugaiyur Firka, Thirukovilur Taluk, Villupuram District. When he was working as Revenue Inspector at Mugaiyur Firka, he was issued with a charge memo dated 15.04.2006 where five charges were framed. The reasons for framing of such charges against the respondent / writ petitioner are that, while he was working as a Revenue Inspector, there has been a complaint against one Padmanabhan who is the Village Administrative Officer as if he has concealed the free Dhotis and Sarees which were supposed to be distributed to various beneficiaries in that Village during the Pongal festival of that year. Immediately, he rushed to that spot and found out that, the Village Administrative Officer has concealed the materials which were supposed to be



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given as a Pongal gift to the people, therefore, immediately, he sealed the premises and had given a report to the higher officials, namely, the Tahsildar and Revenue Divisional Officer and thereafter, a criminal case also had been filed and the criminal case was ended in acquittal. However, disciplinary proceedings initiated was ended against him, where punishment also had been awarded against him.

3. Simultaneously, the aforestated charge has been framed on 15.04.2006 against the respondent / writ petitioner where the main charge against him was that, even though he made the complaint and he had given report to the Revenue Divisional Officer, subsequently at the time of the trial of the criminal case against the Village Administrative Officer, he had not properly deposed before the Criminal Court, resultantly, the said Padmanabhan i.e., Village Administrative Officer had been acquitted, that was the main charge framed against him.

4. Even though the charges having been enquired by the Enquiry Officer, he had filed a report stating that, the charges framed against him had not been proved. Not agreeing with the same, the disciplinary authority after giving a show cause notice, according to him, has imposed the punishment of



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withholding the increment for one year with cumulative effect against the respondent / writ petitioner. As against the said order and for consequential relief, the respondent / writ petitioner filed the said writ petition in the year 2010.

5. The learned Judge in the order impugned dated 29.11.2022 has found that, as against the order of punishment awarded by the disciplinary authority, when appeal was filed, the Appellate Authority even though found that, the reasons for the delinquent officer, namely, the respondent / writ petitioner having not given the proper evidence before the trial Court where the criminal case was conducted against the Village Administrative Officer - Padmanabhan is mainly because of the proper guidelines having not been given by the higher officials of the delinquent i.e., Revenue Divisional Officer or Tahsildar concerned, no proceedings had been initiated against those higher officials, however, the Revenue Inspector alone since has been singled out and against him since the punishment had been given, the learned Judge has shown an interference in the order impugned before the writ Court and the learned Judge has also given reasons that, the order since has to be quashed, the matter need not be remanded back for re-consideration, because, at the time, when the writ petition was filed, the petitioner was 52 years of age, by that time in 2022,



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when it was discussed, definitely he would have reached the superannuation and retired from service, that is how, the writ petition was fully allowed, as against which, the present appeal has been directed.

6. We have heard Mr.R.Neelakandan, learned Additional Advocate General appearing for the appellants and have gone through the order impugned passed by the learned Judge. The facts have been narrated by the learned Judge in Paragraph No.2 of the order which reads thus:

"2. The brief facts of the case are that the petitioner was appointed as Junior Assistant in the Revenue Department on 02.06.1988. Thereafter he was promoted as Assistant on 02.06.1994, as Revenue Inspector, Mugaiyur Firka, Thirukovilur Taluk, on 01.04.1996 and promoted as Deputy Tahsildar on 08.02.2010 and posted in Thirukovilur Taluk, Villupuram District. While the petitioner was working as Revenue Inspector in Mugaiyur Firka, he was issued with the charge memo dated 15.04.2006 where under 5 charges were framed. It is seen that while the petitioner was working as Revenue Inspector, there was a complaint lodged by the public against one Padmanabhan, the Village Administrative Officer in Ayandur Village stating that he did not disburse the free Dhotis and Sarees to the beneficiaries during the Pongal festival. The petitioner inspected the said VAO-s residence at



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Mogaiyur village and found that the said VAO had concealed the free Dhotis and Sarees and so he immediately sealed it and sent a report to the third respondent that is Revenue Divisional Officer, Thirukovilur, Villupuram District on 30.11.2008 seeking instructions from him. The petitioner further lodged a police complaint against the VAO Shri.Padmanabhan and a criminal case was also lodged against him, in which the petitioner also gave evidence. The criminal case resulted in acquittal of the VAO vide order dated 31.01.2003. Apart from the criminal case, disciplinary proceedings were also initiated against the said VAO which ended with a punishment of -stoppage of increment for a period of 6 months without cumulative effect vide order dated 17.02.2006. The recovery proceedings were also initiated and final order of recovery was passed on 20.10.2006 by the Tahsildar, Thirukovilur in pursuance of which the said VAO remitted the entire amount of Rs.25,996/~ to the department. While so, the petitioner was issued with a charge memo dated 15.04.2006 on 5 counts. The enquiry officer after full fledged enquiry submitted his report on 17.02.2006. Thereafter, the second respondent passed final orders on 17.11.2007 imposing punishment of stoppage of increment for a period of one year with cumulative effect against the petitioner. The petitioner preferred an appeal before the first respondent on 28.12.2007 and the first respondent vide order dated 24.02.2010 rejected the appeal. Aggrieved by the order



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passed by the first respondent dated 24.02.2010 confirming the orders of the second respondent dated 17.11.2007, the present writ petition is filed by the petitioner."

and how the higher officials also are responsible in this regard which in fact found out by the Appellate Authority has also been considered by the learned Judge in Paragraph No.9 of the order which reads thus:

"9. Be that as it may, the petitioner nevertheless submitted his explanation in Aug 2007. The disciplinary authority without considering the petitioner's explanation by merely discussing the discrepancies/ inconsistencies in the petitioner's deposition passed the impugned order dated 17.11.2007 imposing the punishment of stoppage of increment for one year with cumulative effect. The petitioner therefore preferred an appeal before the first respondent and the first respondent confirmed the order of the second respondent by the second impugned order. The first respondent in the impugned order held as follows:

*திரு. பத்மநாபன், கிராம நிர்வாக அலுவலர்
மீது, திருக்கோவிலூர் நீதித்துறை நடுவர்
நீதிமன்றத்தில் தொடரப்பட்ட கிரிமினல்
வழக்கினை முறையாக கையாளப்பட்டதற்கு
ஆவணங்களில் போதுமான ஆதாரங்கள் ஏதும்
இல்லை. மேலும் இவ்வழக்கை
கையாளப்பட்டிருக்க வேண்டிய திருக்கோவிலூர்*



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வட்டாட்சியரோ அல்லது வருவாய்
கோட்டாட்சியரோ தங்களது சார்நிலை
அலுவலர்களுக்கு தக்க அறிவுரைகள்
வழங்கியதற்கு ஆவணங்களில் ஆதாரங்கள்
ஏதுமில்லை. சார்நிலை அலுவலர்கள்
முன்னுக்குப்பின் முரணாக சாட்சியம்
அளித்ததற்கும், பிறழ்சாட்சிகளாக மாறியதற்கும்
உயர் அலுவலர்களால் தக்க அறிவுரைகள்
வழங்காததும் ஒரு காரணம் ஆகும்."

7. The learned Judge also has given the reasons that the punishment awarded against the respondent / writ petitioner is unsustainable and at Paragraph No.11, such reasons have been given by the learned Judge which reads thus:

"11. It is seen in this case, that the delinquency was brought to light by the petitioner and the criminal proceedings were initiated at the instance of the petitioner. It is also seen from the discussion above that the acquittal of the delinquent VAO was not because of the petitioner alone, but admittedly also because of the failure of the higher officials in not instructing the petitioner on the conduct of the trial, for non appearance of witnesses who failed to appear before Court inspite issue of summons and due to certain witnesses turning hostile. While so, the imposition of higher punishment of stoppage of increment for one year with cumulative effect



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on the petitioner alone is not justified. It is seen that the respondents have imposed a punishment of stoppage of increment for a period of six months with cumulative effect against the delinquent VAO and punishment of warning against the Revenue Divisional Officer but imposed the aforesaid higher punishment on the petitioner."

8. Having gone through the reasoning given by the learned Judge, we do not find any error in the said approach of the learned Judge, hence this Writ Appeal fails and accordingly, it is dismissed. The direction given by the learned Judge in allowing the said writ petition is to be complied by the appellants Department within a period of two months from the date of receipt of a copy of this judgment. Till such time, no coercive steps shall be taken against the appellants Department. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) (C.S.N., J.)

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NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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