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W.P.No.17043 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.17043 of 2020

L.Rajakumar

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Department of Labour and Employment,
Fort St.George,
Chennai – 600 009.

2.The Commissioner of Labour,
Chennai – 600 006.

3.The Joint Commissioner of Labour-II,
Chennai – 600 006.

4.The Assistant Commissioner of Labour,
Enforcement Wing,
Tiruvallur,
Tiruvallur District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying
for issuance of Writ of Certiorarified Mandamus calling for the records in
pursuant to the impugned order of punishment of stoppage of increment



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without cumulative effect issued by the fourth respondent in proceedings A/950/2019 dated 10.01.2020 & the impugned appellate order issued by the third respondent in proceedings A1/1816/2020 dated 21.08.2020 and quash these orders and to consequently direct the respondents to restore the withheld the increment to the petitioner and to sanction all other consequential service and monetary benefits.

For Petitioners : Mr.L.Chandrakumar

For Respondents : Mr.V.Manoharan,
Additional Government Pleader

ORDER

This writ petition has been filed to call for the records in pursuant to the impugned order of punishment of stoppage of increment without cumulative effect issued by the fourth respondent in proceedings A/950/2019 dated 10.01.2020 & the impugned appellate order issued by the third respondent in proceedings A1/1816/2020 dated 21.08.2020 and quash these orders and to consequently direct the respondents to restore the withheld the increment to the petitioner and to sanction all other consequential service and monetary benefits.



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2. The case of the petitioner is that initially the petitioner was appointment as Junior Assistant on 04.09.2000 and thereafter, he got appointed as Assistant Inspector of Labour (AIL)-Group II Grade on 27.08.2008. Subsequently, he was promoted as Deputy Inspector of Labour and posted at Thiruvallur from 09.09.2015 to 13.06.2018 and he was also also holding the post of Deputy Inspector of Labour, Tiruvottiyur from 04.04.2018. At the time of filing this writ petition, the petitioner worked as Deputy Inspector of Labour, Chennai VII (7th Circle.

3. This being so, the fourth respondent issued a charge memo 22.02.2019, under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 on the following grounds:

(i) The Petitioner failed to collect weekly stamp fee collection reports from Mr.G.Sethumadhavan, Stamping Inspector, Tiruvottiyur, while he was holding the post of Deputy Inspector of Labour (in-charge), Tiruvottiyur between 09.09.2015 and 04.04.2018.

(ii) The petitioner failed to conduct a surprise inspection of the Office



of the Stamping Inspector, Tiruvottiyur, who has failed to submit the stamp fees collection report.

(iii) The petitioner failed to calculate the revenue loss to the Government and submit a report to the Controlling Authority and this amounts to either causing revenue loss to the Government or abetting revenue loss to the Government

(iv) The petitioner failed to obey the orders of the higher officials by not conducting the surprise inspection inspite of orders to do so.

4. On receipt of the aforesaid charges, the petitioner made a representation to the third respondent seeking to review the charges and to exonerate him from the charges and the third respondent has converted the charges into under Rule 17(a) of the Tamil Nadu Civil Services (D&A) Rules. Subsequently, the fourth respondent has issued an order dated 09.12.2019 directed the petitioner to submit his explanations for the aforesaid charges. Accordingly, the petitioner has submitted his explanation on 27.12.2019. However, without considering the same, the fourth respondent issued an order dated 10.01.2020, imposing a punishment of stoppage of



increment without cumulative effect.

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5. Challenging the aforesaid order dated 10.01.2020, the petitioner has filed a writ petition before this Court in W.P.No.3423 of 2020 and the same was dismissed on the ground of availability of alternative remedy. Pursuant to the order of this Court, the petitioner has preferred an appeal before the third respondent on 21.02.2020. But, without considering it properly, the third respondent rejected the appeal vide proceedings A1/1816/2020 dated 21.08.2020 dated 21.08.2020. Challenging the order passed by the fourth respondent dated 10.01.2020 and the order passed by the appellate authority i.e., the third respondent dated 21.08.2020, the petitioner has come forward with the present writ petition.

6. Learned counsel for the petitioner submitted that the Stamping Inspector i.e., Mr.G.Sethumathavan is not subordinate to the petitioner and both the petitioner and the Stamping Inspector are subordinates to the fourth respondent. Hence, the question of supervision or lack of supervision of the Stamping Inspector will not arise. Moreover, while the petitioner was



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working as Deputy Inspector of Labour, Tiruvottiyur (In-charge), he informed the then Inspector of Labour, Thiruvallur about the non submission of Stamping Fees collection Weekly Reports by Mr.G.Sethumadhavan, the then Stamping Inspector of Thiruvottriyur, both in person and vide his letters dated 05.01.2016, 22.04.2016 & 23.05.2016. Thereafter, the post of Inspector of Labour, Thiruvallur has been subsequently upgraded as Assistant Commissioner of Labour, Thiruvallur. Subsequent to the letter dated 05.01.2016, the then Inspector of Labour, Thiruvallur issued order dated 15.04.2016 constituting an Inspection committee headed by the petitioner, comprising of a Junior Assistant, Typist and an Office Assistant to inspect the office of the Stamping Inspector of Thiruvottriyur on 18.04.2016 and to submit a report.

7. Learned counsel for the petitioner submitted that when they reported for the inspection, the Stamping Inspector failed to submit all the records and files and in this regard, Mr.G.Sethumadhavan, the then Stamping Inspector submitted a copy of letter addressed to then Inspector of Labour, Tiruvallur in Letter No. 62/2016 dated 18.04.2016 expressing his inability to submit the



relevant records and files for inspection and admitted that he had not maintained the files properly, as he was suffering from heart ailments with blockages in the arteries etc., due to which he was visiting the hospital on a frequent basis, and also he was preoccupied as he was officiating as Assistant Inspector of Labour, Tiruvottiyur and Ponneri and attending stamping duty camps and also requested for further time of 20 days to submit the files and records for inspection. Therefore, the petitioner submitted a report to the then Inspector of Thiruvallur, informing him about his inability to conduct the inspection, since the Stamping Inspector had failed to submit the files and records for inspection.

8. Learned counsel for the petitioner further submitted that even thereafter, the said Mr.G.Sethumadhavan, Stamping Inspector had failed to submit the files and records for inspection. Therefore, the petitioner informed the Inspector of Labour, Thiruvallur about the failure of submitting of files for inspection and also informed him that due to the same, he was unable to verify the genuineness of the Stamping fees receipts and also recommended action against Mr.G.Sethumadhavan. Subsequently,



disciplinary proceedings were initiated against the said Mr.G.Sethumadhavan and he was imposed with the punishment of stoppage of increment for a period of six months without cumulative effect.

9. Learned counsel for the petitioner further submitted that even thereafter, Mr. G.Sethumadhavan had failed to submit his weekly stamp fees collection report and the same was repeatedly reported to the then fourth respondent. Hence, an inspection committee was constituted and the petitioner was also included as a member. When the Inspection Committee went for inspection, the said Stamping Inspector informed that there was a bereavement in his family and therefore unable to come to the office. Hence the inspection was postponed to 13.06.2018. On 13.06.2018, when the petitioner went for the inspection, it was informed by the fourth respondent that he was transferred as Deputy Inspector of Labour-V Chennai. Therefore the petitioner was unable to conduct the inspection and handed over the post of Deputy Inspector of Labour, Tiruvallur as in-charge to the Assistant Commissioner of Labour (Enforcement), Tiruvallur, i.e to the officer who framed charges against the petitioner.



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10. Learned counsel for the petitioner further submitted that subsequently Mr. G.Sethumadhavan was transferred and on his place one Mr. Rajagopal was posted as Stamping Inspector. On taking charge, Mr. Rajagopal found out that Mr. G.Sethumadhavan had not maintained any files regarding Stamp Fees Collection and informed the same to his higher officials vide his letter dated 25.06.2018. Subsequently, the third respondent has conducted an inspection on the office of the Stamping Inspector, Thiruvottriyur on 14.09.2018. Based on the above said inspection, the Joint Commissioner of Labour II, Chennai issued Memos to Mrs.A.Valarmathi, Mr.Sivakumar, who were the then Assistant Commissioner of Labour, (Enforcement), Tiruvallur and to other officials including the petitioner to submit their explanations on the lapses committed by Mr.G.Sethumadhavan. In this regard, the petitioner has submitted explanations.

11. Learned counsel for the petitioner further submitted that an action was initiated against the petitioner by serving a Charge Memo vide A/950/2018 dated 22.02.2019 under Rule 17(b), Tamil Nadu Civil Services



(discipline and Appeal) Rules and immediately on receipt of the charges, the made a representation to the third respondent, narrating the above said facts and requesting him to review the charges and to exonerate him from the charges framed against him, as he was on the verge of being included in the panel for promotion to the post of Assistant Commissioner of Labour. On receipt of his representation, the third respondent called for the entire records and after giving an opportunity of personal hearing, had converted the charges into one under rule 17(a) of the Tamil Nadu Civil Services (D&A) Rules.

12. Learned counsel for the petitioner further submitted that while converting the charges into Rule 17(a) of the Tamil Nadu Civil Services Discipline and Appeal Rules 1955, the third respondent had made categorical observations that (i) there was no sufficient documentary proofs in the file to prove the charges levelled against the petitioner, (ii) it is not correct to state that the Stamping Inspector worked under the control of the Deputy Inspector of Labour i.e under the control of the petitioner (iii) both, the Deputy Inspector of Labour (petitioner) & Stamping Inspector worked under the



control of the Assistant Commissioner of Labour (Enforcement), (iv) it is the duty of the Assistant Commissioner of Labour (Enforcement) to conduct surprise inspection of the offices of the Stamping Inspector and Deputy Inspector of Labour and to review the work performed by the Stamping Inspector & Deputy Inspector of Labour during monthly meetings and to ensure that collected revenue has been deposited in the government accounts or not. Further, the petitioner had already taken action against the said Stamping Inspector by informing the then Assistant Commissioner of Labour (Enforcement) Thiruvallur about the non submission of the Weekly reports and (vi) that the then Assistant Commissioner of (Labour), Thiruvallur had framed charges against the said Stamping Inspector under Rule 17(a) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules 1955 and had imposed the punishment of stoppage of increment for a period of 6 months without cumulative effect and (vii) that therefore the charge of dereliction of duty framed against the petitioner is not maintainable.

13. Learned counsel for the petitioner further submitted that even after the conversion of charges levelled against the petitioner into Rule 17 (a) of



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the Tamil Nadu Civil Services Discipline & Appeal Rules, the fourth respondent herein issued order dated 09.12.2019 directed the petitioner to submit his explanations to the charge. Accordingly, vide his letter dated 27.12.2019, the petitioner submitted his detailed explanations to the charges by denying the charges. However, without considering his explanations, the fourth respondent had issued order dated 10.01.2020, imposing him with the punishment of stoppage of increment without cumulative effect without even specifying the periodicity of punishment.

14. Learned counsel for the petitioner further submitted that challenging the order of punishment dated 10.01.2020, the petitioner filed writ petition in W.P.No.3423 of 2020 and this Court by its order dated 12.02.2020, dismissed the Writ Petition on the ground of availability of alternative remedy. Pursuant to the order of the this Court dated 12.02.2020, the petitioner preferred an appeal to the third respondent on 21.02.2020. However, without considering the same, the third respondent had mechanically rejected his appeal by issuing order dated 21.08.2020. It is pertinent to note that the impugned order of punishment of stoppage of



increment without cumulative effect issued by the fourth respondent in proceeding dated 10.01.2020 did not contain the periodicity of punishment i.e., the period for which the petitioner's increment should be stopped. However, the third respondent, in his appellate order dated 21.08.2020, has stated that the punishment of stoppage of increment without cumulative effect will be for a period of one year. Due to the impugned punishment, the petitioner's name was deferred in the panel for promotion to the post of Assistant Commissioner of Labour for the panel year 2017-2018 and he was overlooked and his juniors were promoted as Assistant Commissioner of Labour.

15. Learned counsel for the petitioner would further submit that the petitioner has undergone the punishment from 01.07.2020 to 01.07.2021 for a period of one year. Further the juniors of the petitioner was promoted on 11.09.2020 as Assistant Commissioner of Labour and due to the pendency of this punishment imposed on the petitioner his name was not included in the panel for the year 2017-18. As a result, he could not be promoted to the post of Assistant Commissioner of Labour. If the petitioner was imposed



punishment under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, then the petitioner is not entitled for next higher promotion.

But, in the present case, the charges against the petitioner was converted under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Hence, he is entitled for promotion to the post of Assistant Commissioner of Labour on par with his juniors with effect from 11.09.2020 and the petitioner is also willing to undergo the punishment in the promoted post. Pending writ petition, the petitioner was promoted to the post of Assistant Commissioner of Labour on 28.06.2022.

16. A counter affidavit has also been filed by the respondents on 29.01.2021.

17. The Additional Government Pleader appearing for the respondents would submit that the duty of the Deputy Inspector of Labour is to collect and verify the weekly report of the Stamping Fee Collection particulars along with duplicate copies of applications, Cash Receipts and the issued verification certificates from the subordinate Stamping Inspectors. The



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petitioner while performing the duty of Deputy Inspector of Labour, Tiruvottiyur (in-charge) for the period from 09.09.2015 to 04.04.2018 he has failed to collect weekly reports from the Stamping Inspector, Thiruvottiyur whose office was in his office premises, for the subsequent weeks until he holding the post, so that failed to review the weekly reports. By unsupervised action of the petitioner, he had deliberately failed to conduct surprise inspection to monitor the action of the subordinate Stamping Inspector, and to light his fraudulent practice. So that the petitioner failed to do his duty and unable to secure Government Revenue Loss.

18. Learned Additional Government Pleader appearing for the respondents would further submit that the petitioner has requested the third respondent to exonerate him from all the charges framed against the petitioner, which is not maintainable under Rule 17(b) of the Tamil nadu Civil Service (Discipline and Appeal) Rules. Accordingly vide proceedings No.A12327/2018, dated 20.09.2019, the third respondent has passed orders converting the charges framed under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules to Rule 17(a) of the Tamil Nadu Civil



Services (Discipline and Appeal) rules.

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19. Learned Additional Government Pleader appearing for the respondents would further submit that the petitioner has committed certain irregularities such as failure to review the weekly stamping report of the Stamping Inspector, Tiruvottiyur while he was holding the post of Deputy Inspector of Labour, Tiruvottiyur as full additional charge. The third respondent has considered all the documents along with the explanation furnished by the petitioner and scrutinised all the additional documents furnished by the petitioner and carefully passed final orders vide proceedings No.A1/1816/2020 dated 21.08.2020.

20. Learned Additional Government Pleader appearing for the respondents would further submit that the petitioner has failed to supervise his subordinate officers and also failed in discharges his duties by not conducting periodical inspection to the office of the stamping inspector. The charges levelled against the petitioners were only on the grounds of lack of supervision and failure of taking stringent steps on the erring subordinate



officers and also caused revenue loss to the Government and on the basis, the fourth respondent has passed an order of punishment of stoppage of increment without cumulative effect.

21. Heard the learned counsel on either side and perused the materials available on record.

22. In the present case on hand, initially, the fourth respondent issued charge memo to the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and thereafter, the third respondent has converted the same under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Subsequent to the issuance of charge memo, the petitioner has submitted his explanation on 27.02.2019 and the order of punishment of stoppage of increment without cumulative effect was imposed on the petitioner by the original authority i.e., the fourth respondent on 10.01.2020. For better appreciation, the relevant paragraph of the order is extracted hereunder:

“திரு.இல.இராஜ்குமார், முன்னாள் திருவள்ளூர்
தொழிலாளர் துணை ஆய்வர் மற்றும் திருவொற்றியூர்



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தொழிலாளர் துணை ஆய்வர் (கூ/பொ) தற்போதைய சென்னை 7ம் வட்ட தொழிலாளர் துணை ஆய்வர் மீது சுமத்தப்பட்ட குற்றச்சாட்டுகள், குற்றச்சாட்டுகள் தொடர்பாக அன்னார் அளித்துள்ள விளக்கம் மற்றும் தொடர்புடைய அனைத்து ஆவணங்களும் என்னால் கவனமாக பரிசீலிக்கப்பட்டது. குற்றம் சாட்டப்பட்ட அலுவலர் அளித்துள்ள விளக்கம் ஏற்படையதாக இல்லை. மேலும், குற்றம் சாட்டப்பட்ட அலுவலர் குற்றச்சாட்டுகளை ஒப்புக் கொண்டுள்ளார். எனவே குற்றம் சாட்டப்பட்ட அலுவலர் மீதான இவ் ஒழுங்கு நடவடிக்கையில் தனியரின் அடுத்து வரும் ஆண்டு ஊதிய உயர்வினை திரண்ட பயனின்றி நிறுத்தி வைத்து (Stoppage of increment without cumulative effect) தண்டனை வழங்கலாம் என முடிவு செய்து அவ்வாறே ஆணையிடப்படுகிறது.

மேற்படி தண்டனை விபரம் தனியரின் பணிப்பதிவேட்டில் பதியப்பட வேண்டும். தனியருக்கு வழங்கப்பட்டுள்ள தண்டனை மீது மேல்முறையீடு செய்ய விரும்பினால் இச்செயலானை கிடைக்கப்பெற்ற நாளிலிருந்து 2 மாதங்களுக்குள் உரிய அலுவலருக்கு மேல்முறையீடு செய்யப்பட வேண்டும்.”

23. Challenging the said punishment order dated 10.01.2020, the petitioner has filed writ petition in W.P.No.3427 of 2020 and this Court vide its order dated 12.02.2020, dismissed the writ petition on the ground that the petitioner has not exhausted the appeal remedy and directed the petitioner to file an appeal before the Appellate Authority. Thereafter, the petitioner preferred an appeal before the third respondent on 21.02.2020 and the



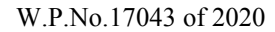
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appellate authority passed an order dated 21.08.2020 by confirming the order of the fourth respondent dated 10.01.2020. For better appreciation, the relevant portion of the order is extracted hereunder:

“ மேலே 6ல் படிக்கப்பட்ட செயல்முறை ஆணையில் மேல்முறையீட்டாளருக்கு அடுத்து வரும் ஆண்டு ஊதிய உயர்வினை திரண்ட பயனின்றி நிறுத்தி வைத்து (Stoppage of increment without cumulative effect) என ஆணையிடப்பட்டுள்ளது. அடுத்து வரும் ஊதிய உயர்வு நிறுத்தம் என்பது ஓராண்டு காலம் என்பது தெளிவாகிறது.

எனவே திருவள்ளூர் தொழிலாளர் உதவி ஆணையர் (அமலாக்கம்) வழங்கிய தண்டனையை உறுதி செய்து அவ்வாறே ஆணையிடப்படுகிறது.”

In the original authority/fourth respondent order dated 10.01.2020, in tamil, it is mentioned as “இவ் ஒழுங்கு நடவடிக்கையில் தனியரின் அடுத்து வரும் ஆண்டு ஊதிய உயர்வினை திரண்ட பயனின்றி நிறுத்தி வைத்து....” but in English, the original authority has not mentioned about the period and it is only mentioned as “stoppage of increment without cumulative effect”. However, while affirming the order of the original authority/fourth respondent, the appellate authority/third respondent vide its order dated 21.08.2020 clarified that the punishment of stoppage of increment is for a



24. One of the contention of the petitioner is that his juniors were promoted as Assistant Commissioner of Labour by way of transfer for the year 2017-2018 and 2018-2019, which was approved by the first respondent vide his proceeding No.E2/4732/2019 dated 11.09.2020 and he should have been promoted on par with them with effect from 11.09.2020 whereas he has been promoted as Assistant Commissioner of Labour only on 28.06.2022. This contention is unsustainable/untenable for the reason that, once the period of punishment is mentioned as one year by the appellate authority, then there is a currency of punishment against the petitioner as on 11.09.2020, the date where his juniors were promoted to the post of Assistant Commissioner of Labour. The punishment period is from 01.07.2020 to 01.07.2021, there is a currency of punishment pending against the petitioner as on 11.09.2020, he is not eligible for the promotion to the post of Assistant Commissioner of Labour.



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Labour on par with his juniors, who were promoted on 11.09.2020.

Whereas, the petitioner was promoted as Assistant Commissioner of Labour on 28.06.2022.

25. In view of the above facts and circumstances of the case, this Court is not inclined to interfere with the punishment of stoppage of increment without cumulative effect issued by the fourth respondent in proceedings A/950/2019 dated 10.01.2020 & the impugned appellate order issued by the third respondent in proceedings A1/1816/2020 dated 21.08.2020 and the same is hereby confirmed.

26. **The petitioner has undergone the punishment of censure for the period of one year that is from 01.07.2020 to 01.07.2021.** Hence, the petitioner is eligible for promotion to the post of Assistant Commissioner of Labour with effect from 02.07.2021 and this Court is inclined to issue the following direction:

“The first respondent is directed to promote the petitioner to the post of Assistant Commissioner of Labour with effect from 02.07.2021



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within a period of 8 weeks from the date of receipt of a copy of the order.”

27. This writ petition is disposed of with the above observation and direction. No costs. Consequently, connected miscellaneous petition is closed.

06.12.2024

(vm)

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No



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To:

- 1.The Principal Secretary to Government,
Department of Labour and Employment,
Fort St.George,
Chennai – 600 009.
- 2.The Commissioner of Labour,
Chennai – 600 006.
- 3.The Joint Commissioner of Labour-II,
Chennai – 600 006.
- 4.The Assistant Commissioner of Labour,
Enforcement Wing,
Tiruvallur,
Tiruvallur District.



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