

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.01.2015

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.NO. 38260 OF 2006
(O.A.NO.827 of 2004)

T.N.Sankarasundaram

... Petitioner

Vs.

1. The State of Tamilnadu
Rep. by the Secretary to Government
Information and Tourism
Development Department
Fort St. George
Chennai -9.
2. The Director of Stationery & Printing
Anna Salai
Chennai -2

Respondents

PRAYER: This Writ petition came to be numbered under Article 226 of the Constitution of India by way of transfer of O.A.No.827 of 2004 from the file of the Tamil Nadu Administrative Tribunal praying for Certiorarified Mandamus, to call for the records on the file of the second respondent and first respondent in connection with the impugned orders passed by them in their proceedings i) Dir.No. 20570/E2/94, dated 29.11.1996, ii) G.O.(4D) No. 1 I & T (S & P.I) Department, dated 17.01.2001 and iii) G.O.No. 354, dated 16.12.2003 respectively and quash the same.

For Petitioner : Mr.R.Karthikeyan

For Respondents : Mr. N.Srinivasan
Additional Government Pleader

O R D E R

The petitioner Mr. T.N. Sankarasundaram, filed O.A. No. 827 of 2004 challenging the correctness of the order of punishment imposing penalty of a cut of Rs.100/- from pension for one month,

when he was 66 years. The matter came on transfer to this Court as Writ Petition No. 38260/2006.

2. Challenging the impugned order, learned counsel appearing for the petitioner would submit that the petitioner was issued with a charge memo dated 29.11.1996 under rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, on the date of his retirement, i.e. on 30.11.1996, along with the order of the Government dated 29.11.1996, permitting him to retire from service without prejudice to the disciplinary proceedings pending against him. It is further submitted that on the date of retirement no charges were pending against the petitioner and so the order is erroneous. Therefore, the charge memo dated 29.11.1996 issued against him is a result of total non-application of mind, which is passed vindictively and wantonly, as he has got promotion as General Manager with all monetary and service benefits, with effect from the date of promotion given to his junior Mr. V.C. Kaleeswara Rao.

3. Although the petitioner submitted a detailed explanation to the two charges, an Enquiry Officer was appointed, as his explanation was not accepted by the disciplinary authority. Thereafter, the enquiry officer on completion of the enquiry submitted his report and findings to the Government, categorically holding the charges against him as proved. The disciplinary authority also accepting the report of the Enquiry officer, finally imposed the punishment of cut of Rs.100/- from pension for one month only. Under this background, learned counsel appearing for the petitioner would submit that when the petitioner was slapped with the charge memo containing two charges, namely, that while functioning as Works Manager during the period from 1.7.92 to 30.6.93 he had sold the accumulated rubbish in his capacity as Works Manager to M/s.M.K.R Waste Paper Merchants without the order of the Director of Stationery and Printing, thereby rejecting the higher offer of Rs.60,900/- and accepted the lower offer of Rs.54,891/- and thus causing a net loss of Rs.6,009/- to the Government; and that he had unauthorisedly absented himself from duty from 25.01.1996 to 30.08.1996 thereby showing scant regard for the morality and official integrity of the Department, the Disciplinary authority knowing pretty well that these two charges are motivated, have come down to impose a lighter punishment, which itself shows that the disciplinary authority is unable to impose any punishment.

4. That apart, when the petitioner filed the Original Application before the Tamilnadu Administrative Tribunal asking promotion on par with his junior Thiru V.C. Kaleeswara Rao to the post of General Manager, with all monetary and service benefits from the date of promotion given to his junior colleague Thiru V.C. Kaleeswara Rao, learned Tribunal also by its order dated 08.01.1996 allowed the said Original Application. As against that the

department unsuccessfully went on appeal by preferring a SLP before the Hon'ble Supreme Court and the same was also dismissed.

5. In view of the above said order passed by learned Tamilnadu Administrative Tribunal, which was confirmed by the Hon'ble Supreme Court, the respondents went on to wreak vengeance. Even after that, the order of the Tribunal was not implemented. Therefore, the petitioner was unable to join duty from January to August 1996. This fact was known and accepted by the department. Therefore, the entire proceedings from initiation of the charge memo clearly smacks of arbitral exercise of power. That apart, the imposition of punishment of cut of Rs.100/- from pension for one month also clearly shows that the respondents were unable to impose any punishment. In view of that, the impugned order is liable to be set aside, he pleaded.

6. Reply affidavits have been filed by the respondents. Learned Additional Government Pleader appearing for the respondents submitted that even after being relieved from the post of Works Manager in Government Central Press, the petitioner did not join at all at Madurai Branch Press and that he was on leave continuously, for nearly 17 months from 13.08.1994 to 21.01.1996 to evade from the transfer. He further stated that the Government have taken only a lenient view on the petitioner and imposed the order of punishment of a cut of Rs.100/- from pension for one month and hence prayed for dismissal of the petition.

7. But this Court finds no justification to challenge the impugned order. Even if the second part of the charge namely, his unauthorised absence from duty commencing from 25.01.1996 to 30.08.1996 is taken into account, as a model officer of the State Government, the petitioner has no justification or reason to keep away from the office, for the reason that the respondents have failed to implement the order passed by learned Tamilnadu Administrative Tribunal. Therefore, when he was found guilty on two grounds by the Enquiry Officer, the disciplinary authority for the reasons best known to them have come forward to impose a minimum punishment of a cut of Rs.100/- from pension that to for only one month. Therefore, this Court is not able to see any unreasonableness or arbitrariness to interfere with the punishment.

8. Therefore, the Writ Petition fails and the same is dismissed. No order as to costs.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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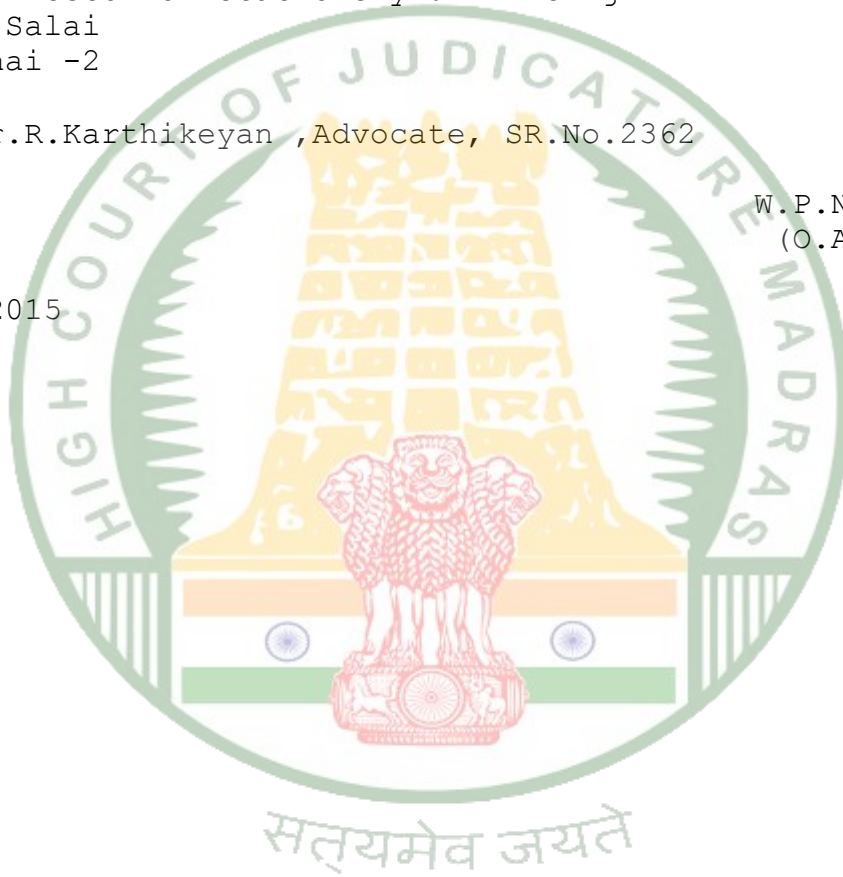
To

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1 cc to Mr.R.Karthikeyan ,Advocate, SR.No.2362

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