

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 22-09-2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.23140 of 2016

R.Subramanian

... Petitioner

-vs-

1.The Registrar (General),
High Court,
Madras - 600 104.

2.The Enquiry Officer,
Deputy Registrar,
High Court,
Madras-600 104.

... Respondents

Writ Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorari to call for the records in proceedings in ROC No.06/2014 Con.Estt-II, dated 15.07.2015, on the file of the first respondent and quash the same.

For petitioner : Mr.V.Bhiman

For respondents : Mr.C.T.Mohan

सतयमेव जयते
O R D E R

(Order of the Court was made by S.Vaidyanathan, J.)

Petitioner has filed this Writ Petition, seeking to quash the proceedings of the first respondent in ROC No.06/2014 Con.Estt-II, dated 15.07.2015.

2. The nitty-gritty of the case is that in an auction conducted on 27.07.2005 for sale of a property, a sum of Rs.1,15,000/- was deposited by one of the bidders, namely, Mrs.G.Rukmani, on two two different dates; firstly a sum of Rs.85,000/- on 27.07.2005, and, subsequently, a sum of Rs.30,000/- on 02.08.2005. Though the said Rukmani was the

highest bidder in the auction, the sale was not confirmed in her favour for some technical reasons, and, as such, the amount of Rs.1,15,000/-, deposited by Rukmani was to be refunded. During the said process of refund, a cheque was prepared for the sum of Rs.1,15,000/-, but the value of the cheque was found corrected/overwritten by the petitioner as Rs.21,15,000/-, in his official capacity, by applying whitener, and there were also some alterations in the contents of the cheque. In that regard, based on a complaint given by the Official Assignee, disciplinary proceedings were initiated against the petitioner by the first respondent. The specific charge, among others, against the petitioner was, that by making such corrections in the cheque, the petitioner had withdrawn the amount and that the said act of the petitioner amounted to grave misconduct, dereliction of duty, non-integrity and scant regard for rules and, thus, he had acted in a manner of unbecoming of a Government servant and thereby violated Rule 20 of Tamil Nadu Government Servants' Conduct Rules, 1973.

3. A detailed inquiry was conducted, wherein, the said charge has been held proved, stating that the petitioner has altered and fabricated the Government records with an ulterior motive to misappropriate the Government money. Having found that the charge has been proved with regard to fabrication of the cheque, misappropriation of Government money of Rs.21,15,000/- and overpayment of money to one Venkatamuni Reddy Estate, the second respondent found the petitioner guilty of all the charges, numbering 5. Based on the said finding of the second respondent, the petitioner was dismissed from service by the first respondent. In addition to the above charges, criminal proceedings are also said to be pending against the petitioner.

4. The only submission of the learned counsel for the petitioner before this Court is that some leniency may be shown to the petitioner and that the punishment awarded by the first respondent converted into one of compulsory retirement, so as to enable the petitioner to avail terminal benefits, as this Court has enormous power to modify the punishment of dismissal imposed by the first respondent, to the abovesaid effect.

5. The Supreme Court, in a catena of cases, has held that in case of misappropriation of funds, the Court should not show any leniency and such cases have to be dealt with, with an iron hand. Further, we do not find any flaw in the procedure followed by the respondent in the conduct of the inquiry, as the same is in accordance with law, and, as such, the order impugned passed by the first respondent has attained finality, which does not call for any interference by this Court.

6. Therefore, we do not find any merit in this Writ Petition, which is, accordingly, dismissed. No costs. While parting with, we say, that though this is a fit case for imposing heavy costs, since the petitioner is dismissed from service and without employment, we refrain from doing so.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Registrar (General),
High Court,
Madras - 600 104.

2.The Enquiry Officer,
Deputy Registrar,
High Court,
Madras-600 104.

+1cc to M/S.V.Bhiman, Advocate Sr.54079

W.P.No.23140 OF 2016

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srg 21/10/2016

सत्यमेव जयते

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