

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Writ Petition No.8680 of 2016

Mr.T.Tanaradjou

.... Petitioner

Vs.

1. The Union of India
rep. by the Government of Puducherry,
through the Chief Secretary to Government,
Cheif Secretariat, Puducherry - 605 001.
2. The Secretary to Government
(Education), Appellate Authority,
Chief Secretariat, Puducherry - 1.
3. The Deputy Director of School Education,
(Women), Puducherry - 5.
4. The Registrar,
The Central Administrative Tribunal,
High Court Buildings, Chennai - 104.

..... Respondents

PETITION under Article 226 of The Constitution of India
praying for the issuance of Writ of Certiorarified Mandamus to
call for the records on the file of the 4th respondent made in
O.A.No.559 of 2013 dated 09.09.2015 and quash the same and
direct to pay consequential monitory benefits.

For Petitioner : Mr.P.Veeraraghavan

O R D E R

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

Challenging the order of the Tribunal dated 09.09.2015 made
in O.A.No.559 of 2013 rejecting the relief sought for by the
petitioner herein, the present Writ Petition has been filed.

2. The brief facts of the case are as follows:

The petitioner was appointed as Secondary Grade Teacher at Government Primary School, Kumarapalayam, Puducherry. Thereafter, he was designated as Primary school Teacher (Senior Scale) in 1993 and transferred to Meenatchipet Primary School on 18.05.2004. It is stated that on oral instruction, the petitioner was transferred from Meenatchipet Primary School to Sokkanathanpet Primary School, which is annexure to Meenatchipet Primary School and again from Sokkanathanpet Primary School to Meenatchipet Primary School. While he was working in Meenatchipet Primary School, he was served with a charge memo under Rule 14 of CCS (CCA) Rules 1965 and thereafter suspended on 09.05.2006. Challenging the said charge-memo the petitioner herein filed an appeal before the Appellate Authority, who revoked the suspension by order dated 09.08.2006, however, upheld the charges framed by order dated 01.11.2007. Thereafter, the Inquiry Officer conducted enquiry and submitted the report on 21.12.2009. Accepting the findings of the Inquiry Officer, the disciplinary authority, by order dated 01.06.2010 imposed penalty of withholding increments for a period of two years without cumulative effect. The relevant portion of the said order reads as follows:

"NOW, THEREFORE, after a carefull consideration and after applying the mind, Thiru T.Tanaradjou, the depositions made during the enquiry in order to meet the ends of justice and the undersigned in exercise of the powers conferred under Rule 11 of the Central Civil Services (Classification Control and Appeal) Rules, 1965 hereby imposes on Thiru.T.Tanaradjou, PST (SS), a penalty of withholding of increments for a period of two years without cumulative effect, this will take effect from 01.07.2010 onwards. The period of absence from 30.03.2006 to 03.04.2006 was treated as Dies-non and this will have no impact on the qualifying service and pensionary benefits. The period of suspension from 09.05.2006 to 09.08.2006 shall be treated as leave admissible"

3. Aggrieved by the said imposing of punishment, the petitioner herein again filed an appeal before the Appellate Authority, who modified the order of the disciplinary authority to the extent of full pay and allowances for the period of suspension from 09.05.2006 to 09.08.2006 by order dated

28.06.2011. For better appreciation, the relevant portion of the order reads as follows:

"7. And whereas the major grounds in which the appeal has been preferred have all been duly examined in pre-paras. Now therefore, I am of the opinion that the minor penalty of withholding of two increments without cumulative effect imposed by the Disciplinary Authority is in order and does not warrant any interference. I therefore, uphold the penalty imposed by the Disciplinary Authority. However, the Orders of the Disciplinary Authority treating the suspension period as leave admissible is contrary to rules as the proceedings ended up with minor penalty. Hence, the same is modified and the appellant be paid full pay and allowances for the period of suspension from 9.5.2006 to 9.8.2006, as per rules."

4. As against said order, the petitioner has preferred a revision before the Revisional Authority, who by order dated 30.3.2012 held as follows:

"NOW THEREFORE, after having taken into consideration all the papers relating to the orders passed by the Disciplinary Authority dated 1.6.2010 and the Appellate Authority dated 28.6.2011 and after due consideration of what has been stated above, I find no reason to quash, set aside and cancel the orders of the Disciplinary Authority dated 1.6.2010 and the Appellate Authority dated 28.6.2011. the Revision Petition is thus disposed."

5. Aggrieved by the order of the Revisional Authority, the petitioner herein has filed Original Application before the Central Administrative Tribunal.

6. The Tribunal, after careful consideration of entire facts and after hearing the submissions on both sides, dismissed the application holding as follows:

"14..... The inquiry officer is justified in recording the finding that Articles of Charges 2, 3 4 and 6 as proved and article of charge No.5 as partly proved. The penalty imposed on the applicant is commensurate with the guilt proved in the departmental inquiry."

15. In the result, we find that the OA is devoid of merits and the same is hereby dismissed. No order as to costs."

7. Aggrieved by the order of the Tribunal, the petitioner is before this Court.

8. Learned counsel appearing for the petitioner submits that on oral transfer, the petitioner was working in Sokkanathanpet Primary School. While the petitioner was on casual leave on 28.3.2006 and 29.03.2006 and was about to join on 30.3.2006, he was instructed orally to join duty at Meenatchipet Primary School. Since the petitioner insisted for written proceedings, the same was issued on 04.04.2006 and hence, the petitioner was under the impression that he was under compulsory wait. Hence, there is no fault on the part of the petitioner for not reporting to duty from 30.3.2006 to 03.04.2006. He further submits that there is no complaint against the petitioner and hence, the charges framed against him are not correct. He also submits that the endorsement made in the Visitor's Book could not be a ground to initiate disciplinary proceedings.

9. Heard the learned counsel appearing for the petitioner and perused the materials placed before this Court.

10. A perusal of the order of the Tribunal shows that the petitioner herein was served with a charge memo containing six charges. Even though the petitioner was instructed orally to join Meenatchipet Primary School from Sokkanathanpet Primary School, it is seen that the said Sokkanathanpet Primary School is only annexure to Meenatchipet Primary School. Therefore, the insistence of written proceedings is not warranted. Even the petitioner, after joining the said school, can ask for written proceedings. Hence, having full knowledge of the oral instruction of the higher official, the petitioner did not report to duty, which itself shows the conduct of the petitioner in not obeying the superior officers. It is not the case of the petitioner that he joined the said school on oral instruction.

11. It is seen from the orders of the Authorities below that the Disciplinary Authority, Appellate Authority and the Revisional Authority have followed all the procedures before passing an order and the petitioner was given opportunity to ventilate his grievance. Hence, having participated in all the proceedings, the petitioner, cannot, now state that principles of natural justice have been violated. Therefore, we find there is no procedural irregularity in the orders passed by the Authorities below.

12. In the result, we find no merits in this Writ Petition and hence, the same is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Chief Secretary to Government,
The Union of India
Government of Puducherry,
Chief Secretariat, Puducherry - 605 001.
2. The Secretary to Government
(Education), Appellate Authority,
Chief Secretariat, Puducherry - 1.
3. The Deputy Director of School Education,
(Women), Puducherry - 5.
4. The Registrar,
The Central Administrative Tribunal,
High Court Buildings, Chennai - 104.

+1cc to Mr.P.Veeraraghavan, Advocate, S.R.No.15452
+1cc to the Government Pleader, S.R.No.15243

सत्यमेव जयते

Writ Petition No.8680 of 2016

kji (CO)
srg (23/03/2016)

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