

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE G.JAYACHANDRAN

W.A.No.1039 of 2014

C.Bhoopal ... Appellant/Petitioner

-vs-

1. The Personal Committee
The Tamil Nadu Cooperative
Milk Producers Federation Ltd.,
Aavin Illam, Madhavaram Milk Colony,
Chennai-600 051.
2. The Managing Director,
The Tamil Nadu Cooperative
Milk Producers Federation Ltd.,
Aavin Illam, Madhavaram Milk Colony,
Chennai-600 051. ... Respondents/Respondents

Appeal filed under Clause 15 of Letters Patent, against the order dated 05.06.2014 passed by this Court in W.P.No.2448 of 2010 .

W.P.No.2448 of 2010:- Petition filed Under Article 226 of the Constitution of India to issue Writ of Certiorari to call for the records in Ref.No.14736/PERSIRI/2008 dated 23.12.2009 on the file of the first respondent and quash the same.

For Appellant :: Mr.Balan Haridas

For Respondents :: Mr.O.V.Vijayasarithi

JUDGMENT

(Judgment of the Court was delivered by
HULUVADI G.RAMESH, J.)

This appeal has been filed against the order passed by the learned single Judge of this Court in W.P.No.2448 of 2010 dated 05.06.2014, wherein the prayer of the appellant herein to quash the order passed by the disciplinary authority imposing a

punishment of stoppage of increment for two years without cumulative effect, which has been subsequently confirmed by the appellate authority, was rejected.

2.The charge against the appellant is that while he was serving as Special Officer in the East K.K.Nagar MCCS, on 10.09.2001, he misused his official position and obtained a bribe amount of Rs.2,000/- from an MCCS staff and violated the TCMPF Service Rules. Thereafter, he was issued with a punishment of stoppage of increment for two years without cumulative effect on 29.07.2008. He also retired from service on 31.07.2008. The appeal filed by the appellant before the appellate authority was also dismissed. Hence the appellant approached this Court by way of filing a writ petition in W.P.No.2448 of 2010 to quash the order passed by the disciplinary authority, but the same was dismissed, as stated supra.

3.Challenging the order passed in the writ petition, the present appeal has been filed.

4.The learned counsel for the appellant has submitted that the charge made against the appellant was ultimately not proved by the Enquiry Officer. Further, no material evidence has been placed against the appellant for the alleged misconduct and therefore, the punishment imposed on the appellant is unsustainable and hence he is entitled for the full salary during the period of punishment.

5.The learned counsel for the respondents has submitted that the disciplinary authority has rightly differed with the findings of the Enquiry Officer, who held that the management has not proved the charges beyond reasonable doubt, and imposed a punishment for stoppage of increment for two years without cumulative effect. Further, the learned single Judge is correct in holding that in a departmental proceedings, the guiding principle is preponderance of probability and in the present case, the same has been established. Stating so, he prayed that the writ appeal has to be dismissed.

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

7.Though the allegation made against the appellant is not proved by the Enquiry Officer, it is not necessary that the appellant should be exonerated of the charge, on the ground that no charge has been proved. Because of the failure of establishing the charge by the Enquiry Officer, the appellant is not entitled to claim the arrears of salary for the period of punishment. However, since prima facie material has not been placed against him and the charge framed against him has not

been proved, as a matter of solace, a consolidated sum of Rs.2,500/- (Rupees Two Thousand Five Hundred Only) shall be paid to the appellant by the respondents.

8.The writ appeal is partly allowed. No costs.

Sd/-
Deputy Registrar (Judicial)

/true copy/

Sub Asst. Registrar

KM

To

1. The Personal Committee
The Tamil Nadu Cooperative
Milk Producers Federation Ltd.,
Aavin Illam, Madhavaram Milk Colony,
Chennai-600 051.
2. The Managing Director,
The Tamil Nadu Cooperative
Milk Producers Federation Ltd.,
Aavin Illam, Madhavaram Milk Colony,
Chennai-600 051.

+1cc to Mr.O.S.Vijaya Sarathi, Advocate Sr. 53711
+1cc to M/S.Balan Haridas, Advocate Sr. 53795

सत्यमेव जयते

W.A.No.1039 of 2014

KK (CO)
VR(18/8/2017)

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