

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 23.02.2017

Delivered on: 03.03.2017

Coram

The Honourable Mr. Justice K.K.SASIDHARAN
and

The Honourable Mr. Justice V.PARTHIBAN
W.P.No.18777 of 2015

R.Rajendran

.. Petitioner

versus

1. Union of India,
rep. by the Postmaster General,
Western Region (TN),
Coimbatore-641 002.
- 2 The Director of Postal
Services O/o. the Postmaster General
Western Region (TN) Coimbatore 641 002
- 3 The Director (Mails and SP),
Chennai-600 002 and the
Appellate Authority for the staff of
the Western Region (TN) Coimbatore
- 4 The Superintendent of Post
Offices Tirupur Division Tirupur 641 601
- 5 The Registrar
Central Administrative Tribunal
Chennai-600 104.

.. Respondents

Prayer: This Writ Petition is filed under Article 227 of the Constitution of India, for the issuance of Writ of Certiorari, to call the records pertaining to the order of the 5th respondent which is made in O.A.No.1453 of 2011 dated 5.8.2014 and R.A.No.310/00043/2014 in O.A.No.1453 of 2011 dated 29.12.2014, quash the same and consequent to direct the respondents 1 & 4 to reinstate the petitioner into service with all service benefits.

For Petitioners: Mr. R.Malaichamy

For Respondents: Mr.Venkatasamy Babu
SPC for R1 to R4

ORDER

V.PARTHIBAN, J.

This Writ Petition has been filed against the order passed by the Central Administrative Tribunal (in short, 'the Tribunal'), Madras Bench in O.A.Nos.1453 of 2011 dated 5.8.2014 and in R.A.No.43 of 2014 dated 29.12.2014, filed by the petitioner herein, dismissing both the Original and Review Applications.

2. The petitioner herein who was working as Gramin Dak Sevak Branch Postmaster (GDSBPM) was charge sheeted vide charge memo dated 19.11.2008 under Rule 10 of the Department of Posts, Gramin Dak Sevak (Conduct & Employment) Rules, 2001 (in short 'DPGDS Rules'). The charge was in relation to falsification of Government documents. On the petitioner denying the falsification charge, an inquiry was conducted and the Inquiry Officer, by a very detailed analysis of the evidence, held that the charge was proved. The 4th respondent herein accepted the findings of the Inquiry Officer and passed an order on 30.6.2010 dismissing the petitioner from service with immediate effect. The petitioner preferred an appeal against the order passed by the Disciplinary Authority on 29.9.2012.

3. The Appellate Authority, the third respondent herein, vide proceedings dated 21.3.2011 rejected the appeal and confirmed the punishment imposed by the Disciplinary Authority. As against the penalty order and confirmation of the appeal, the petitioner approached the learned Tribunal, assailing the said orders.

4. Before the learned Tribunal, it was contended by the petitioner that the main witnesses on whose statement, the charge sheet was issued, had given a different version in the inquiry and therefore, the charge could not have been held to be proved in the inquiry proceedings. Moreover during the course of inquiry, some additional documents were demanded by the petitioner in order to prove his innocence, but the same were not furnished. It was also contended that the Inquiry Officer introduced new witnesses during the course of inquiry which was contrary to the Rule position. All the contentions which were raised on behalf of the petitioner were refuted specifically by the official respondents. According to the official respondents, there was no prejudice caused to the petitioner as he was given full opportunity to participate in the inquiry in terms of the employment Rules.

5. After taking note of the submissions of the parties, the learned Tribunal has passed a very detailed order, stating that the case of the petitioner was never prejudiced as the

contentions raised by the petitioner had no legal legs to stand on. In fact, the Tribunal has given very detailed reasons as to how the charge was fully established against the petitioner and held that there cannot be any iota of doubt about the charge being more fully proved against the petitioner and therefore, the Tribunal had gone to appreciate that the role of the Tribunal in the matters of disciplinary proceedings whether it can re-appreciate the evidence by assumption of role of Appellate Authority. The observation of the Tribunal on this aspect was perfectly in order and cannot be faulted with.

6. The learned Tribunal has clearly spelt out the law on the issue of judicial review in dealing with the departmental inquiries and such view taken by the Tribunal, by no stretch of legal standards can call for any interference at our hands and finally, the learned Tribunal after concluding against the petitioner, has also held that the quantum of punishment imposed by the Disciplinary Authority, cannot be said to be unduly harsh or totally disproportionate to the gravity of the charges. On the whole, the Tribunal held that the petitioner was given a reasonable opportunity to defend himself and the principles of natural justice were followed and the punishment was also not found to be proportionate. As against the order passed by the learned Tribunal, the present Writ Petition has been filed.

7. Shri R.Malaichamy, learned counsel appearing for the petitioner would contend that the order passed by the learned Tribunal was incorrect as there was no proper or due appreciation of the grounds raised in the Original Application. However, the learned counsel was unable to point out any particular legal aspect on which, the Tribunal has overlooked, of course, in favour of the petitioner.

8. On the other hand, we could see from the detailed order passed by the Tribunal that every aspect of the departmental inquiry was considered in proper perspective and the final conclusion of the Tribunal, cannot be faulted at all.

9. Be that as it may, Shri Malaichamy finally pleaded that notwithstanding the charges proved, the punishment of dismissal from service being too harsh particularly in view of the fact that there was only one solitary charge and by the imposition of impugned penalty, the petitioner suffered economic death, consequent of which, the family which is entirely dependent upon him, was put to grave hardship and sufferance.

10. On the other hand, the learned counsel appearing for the official respondents would contend that the learned Tribunal has taken into consideration all aspects of the petitioner's case and discountenanced all the contentions outright and as such,

no interference is called for, for this Court exercising its extraordinary jurisdiction under Article 226 of the Constitution of India.

11. We have given our anxious consideration to the rival submissions of the learned counsel appearing for the parties.

12. Having regard to the peculiar facts and circumstances of the case, we are of the view that being a solitary charge levelled against the petitioner, notwithstanding the fact that the same was found to be proved in the duly conducted departmental inquiry, the punishment of dismissal from service imposed on the petitioner is little too harsh. Therefore, we are of the opinion that the punishment of dismissal from service dated 30.06.2010 requires to be modified as to one of reduction of pay of the petitioner to the minimum time scale of pay with effect from the date on which, the dismissal order had taken effect, i.e. 30.06.2010.

13. In view of the modification of the penalty now imposed, the impugned orders impugned in the Original Application and also the order passed by the learned Tribunal in the Original Application are hereby set aside. The official respondents are directed to pass consequential orders in the light of the above observation, reinstating the petitioner into service with effect from 30.06.2010 by fixing his pay to the minimum time scale of pay. The petitioner shall earn increment thereafter in the normal course. It is made clear that the petitioner is not entitled to arrears of pay and allowances that may flow consequent to the reinstatement order. The pay shall be fixed in notional basis and the petitioner is entitled to all other service benefits. The official respondents are directed to pass the orders within a period of three months from the date of receipt of a copy of this order. It is also made clear that this Court, having considered the peculiar circumstances of the present case, passed the order and hence, it cannot be cited as a precedent.

In the result, the Writ Petition is disposed of on the above terms. No costs.

-s/d-
Assistant Registrar(CsII)

True Copy

Sub-Assistant Registrar

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To

1. The Postmaster General,
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Appellate Authority for the staff of
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4 The Superintendent of Post
Offices Tirupur Division Tirupur 641 601

5 The Registrar
Central Administrative Tribunal
Chennai-600 104

+1 cc to Mr.R.Malaichamy Advocate sr 13781

+1 cc to Mr.Venkatasamy Babu Senior Panel counsel sr 13909

W.P.No.18777 of 2015

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