IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.12.2018
CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.19306 of 2016

K.Govindarajan .. Petitioner

Vs

1. The Director,
Adhi Dravidar Welfare Department,
Chepuak, Chennai- 600005.

2. The District Adhi Dravidar and
Tribal Welfare Officer,
Thiruvarur

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus to call for the records relating to to the order passed by the first respondent in Na.Ka.No.R3/19752/2015 dated 15.03.2016 and to quash the same and further direct the respondents to pay arrears of the salary with all backwages of benefits.

For Petitioner : Mr.S.Parthasarathy

For Respondents : Mrs.P.Rajalakshmi
Additional Government Pleader
(R1 and R2)

O R D E R

This Writ Petition is directed against the impugned order dated 15.03.2016, passed by the Director of Adhi Dravidar Welfare Department, Chepauk,modifying the punishment as stoppage of increment for 1 year with cumulative effect.

2. The case of the petitioner is that while he was serving as a Headmaster in the Adhi Dravidar Welfare Officer, Velangudi, Thiruvarur District on 25.04.2008, he was arrested on a criminal charge of misappropriation of Government funds of Rs.3,00,000/- (Rupees Three Lakhs only) provided under SSA scheme. Subsequently, he was released on 06.05.2008 and only for the reason that the petitioner was in jail for morethan 48 hours, he was placed under suspension vide order dated 23.06.2008 and

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consequently, he was issued with Charge Memo under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal Rules), levelling the following charges against him.

i. That he has misappropriated a sum of Rs.3 lakhs of Government Fund allowed for a construction of 2 class room under SSA Scheme thereby caused loss to the Government.

ii. That the petitioner have not completed the work handed over to him within a period of 4 months and being lethargic in discharging the duty.

iii.Without obtaining permission from the higher official spent additional amount of Rs.89,221/- more than the allowed amount.

iv.The above said charges and act of the petitioner are in violation of Rule 20 of the Tamil Nadu Civil Service (Discipline and Appeal) Rules.

3. The petitioner submitted his explanation on 27.07.2009 and after rejecting the explanation of the petitioner, enquiry officer was also appointed. The enquiry officer, after completing the enquiry, submitted a report dated 21.12.2011, holding that the charges levelled against the petitioner were not proved. As against that, the respondents issued descending note calling for explanation, for which the petitioner submitted his explanation on 15.03.2012 and without considering the same, the Second Respondent passed an order dated 02.04.2012, holding the period of suspension i.e., from 24.05.2008 to 27.07.2008 as penalty. However, he made it clear that the order of punishment is nothing to do with the criminal case registered against the petitioner. However, it was made clear that only after result of the criminal case, on enquiry, suitable action will be taken. Against the same, the petitioner filed an appeal before the first respondent on 15.04.2012. The first respondent passed an order on 15.03.2016, imposing punishment of stoppage of increment for one year with cumulative effect for proven charges against the petitioner. Aggrieved by the same, the present writ petition is filed.

4. The learned counsel for the petitioner would submit that the second respondent has treated the period of suspension as penalty and not imposed with any other punishment. The first respondent has wrongly imposed the punishment. Although, there is a report filed by the enquiry officer in his favour and the report of the enquiry officer has factually absolved the petitioner from all the charges, the present punishment leads to ramification in pensionary benefits. Therefore, he prays that impugned order may be set aside.

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5. This Court is unable to find merits in the present writ petition, for the reason that while the petitioner was serving as a Headmaster in the Adhi Dravidar Welfare Officer, Velangudi, Thiruvarur District on 25.04.2008, he was arrested on a criminal charge of misappropriation of Government funds of Rs.3,00,000/- (Rupees Three Lakhs only) provided under SSA scheme. Subsequently, he was released on 06.05.2008 and only for the reason that the petitioner was in jail for morethan 48 hours, he was placed under suspension vide order dated 23.06.2008 and consequently, he was issued with Charge Memo under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal Rules), levelling four charges against him and the petitioner submitted his explanation on 27.07.2009 and after rejecting the explanation of the petitioner, enquiry officer was also appointed. The enquiry officer, went into the nature of allegations and after completing the enquiry submitted a report dated 21.12.2011, holding that the charges levelled against the petitioner were not proved. But, this has been differed by the disciplinary authority by issuing descending note to the petitioner, calling for explanation, for which the petitioner submitted his explanation on 15.03.2012. Considering the fact that during the course of hearing, the petitioner admitted the charge of misappropriation, the first respondent has rightly come to the conclusion that he should be imposed with stoppage of increment for one year with cumulative effect. It is not known why the disciplinary authority while holding the period of suspension as penalty has not come forward to issue the suitable order of punsihment. Although, he has mentioned in his order dated 02.04.2012, in view of the pendency of the criminal case, he has not come forward to impose punishment and observed that only after knowing the result of the criminal case, he would pass appropriate orders. The petitioner challenged only the order treating the period of suspension as penalty filed an appeal before the first respondent, who in considered opinion of this Court, taking note of the lapse on the part of the second respondent has rightly imposed stoppage of increment with cumulative effect, hence the same cannot be faulted.

6. In view of the same, this Court finds no merit in this writ petition, as there is no infirmity in the impugned order.

7. In the result, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

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To

1. The Director,
   Adhi Dravidar Welfare Department,
   Chepuak, Chennai- 600005.

2. The District Adhi Dravidar and
   Tribal Welfare Officer,
   Thiruvarur

+1cc to Mr.S.Parthasarathy, Advocate, S.R.No.85213

+1cc to the Government Pleader, S.R.No.85839

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RJI(CO)
GSP(21/01/2019)

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