

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2018

CORAM:

THE HON'BLE MR. JUSTICE V. PARTHIBAN

W.P. No.14694 of 2009

D. Kuppurani

Petitioner

vs.

1 The Secretary to Government
Law Department
Fort St. George
Chennai 600 009

2 The Director of Legal Studies
Purasaiwalkam High Road
Chennai 600 010

Respondents

Writ Petition filed Article 226 of the Constitution of India seeking a writ of certiorari to call for the records connected with the Government Order issued in G.O. Ms.No.164, Law Department dated 26.06.2009 passed by the first respondent and quash the same.

For petitioner Mr. S. Ilamvaludhi

For respondents Mr. T.M. Pappiah
Special Government Pleader

ORDER

This writ petition has been preferred calling in question the legality and validity of G.O. Ms.No.164, Law Department dated 26.06.2009 issued by the first respondent.

2 The petitioner was employed as Record Clerk since 22.08.1974 and was promoted as Junior Assistant on 28.08.1983 and was further promoted as Assistant. While so, she was issued with a charge memo by the second respondent on 18.05.2007 for certain acts of alleged misconduct. In response to the charge memo, a reply was given by the petitioner denying the charges levelled against her.

3 However, notwithstanding the explanation offered by the petitioner, an enquiry was conducted and on the basis of the report of the Enquiry Officer, the punishment of stoppage of increment for one year without cumulative effect was inflicted on the petitioner. The said punishment order is assailed in this writ petition.

4 Mr. S. Ilamvaludhi, learned counsel for the petitioner would contend that the punishment of stoppage of increment is

disproportionate to the gravity of charge said to have been proved against the petitioner. According to the learned counsel, although there was a valid explanation forthcoming from the petitioner, the same was not considered properly by the Enquiry Officer and the punishment was imposed by the Disciplinary Authority without considering the petitioner's explanation in its proper perspective. He would further submit that in a similar situation, an employee was given the punishment of censure in view of his impending retirement and therefore, the punishment inflicted on the petitioner is discriminatory and liable to be interfered with.

5 Heard Mr. S. Ilamvaludhi, learned counsel for the petitioner and Mr. T.M. Pappiah, learned Special Government Pleader, appearing for the respondents.

6 Although several grounds have been raised in the writ petition assailing the order of penalty imposed on the petitioner, none of the grounds can be said to be a valid ground calling for interference from this Court. The punishment slapped on the petitioner is a minor penalty and the penalty had worked itself out long back in 2008.

7 The submission made by the learned counsel for the petitioner that a similarly placed employee was imposed only with the penalty of censure, cannot be accepted in view of the admitted fact that the said employee was about to retire from service and therefore, the authority concerned felt that stoppage of increment would have far-reaching financial implications on his pensionary benefit. Such a scenario does not exist in the case at hand and therefore, the petitioner cannot be heard to compare herself with the so-called other similarly placed employee. Even otherwise, this writ petition lacks merit and in such perspective of the matter, this Court does not find any infirmity in the impugned Government Order passed by the first respondent in the facts and circumstances of the case.

Resultantly, this writ petition fails and is accordingly dismissed. No costs.

Sd/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

cad

To

1 The Secretary to Government
Law Department
Fort St. George
Chennai 600 009

2 The Director of Legal Studies
Purasaiwalkam High Road
Chennai 600 010

+1 cc to the Government Pleader, High Court, Chennai SR.NO. 678

W.P. No.14694 of 2009

SS (CO)
JK 19/02/18



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