

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2018

CORAM:

THE HON'BLE MR.JUSTICE M. DHANDAPANI

W.P.No. 31894 of 2006 and

M.P.No.1 of 2006

S. Venkatachalam

... Petitioner

/Vs/

1.The Secretary to Government,
Labour and Employment Department,
Fort St. George, Chennai - 600 009.

2.The Special Commissioner,
The Office of Employment and Training,
Guindy, Chennai - 600 032.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the first respondent relating to the impugned order G.O.Ms.T.No.482 (Labour and Employment Department) (TI), dated 11.07.2006 and to quash the same.

For Petitioner : Mr.R. Kannan

For Respondents : Mr.K. Ravi Kumar
Additional Government Pleader

O R D E R

The petitioner has filed this writ petition challenging the impugned order of punishment in G.O.Ms.T.No.482 (Labour and Employment Department) (TI), dated 11.07.2006 and to quash the same.

2. The case of the petitioner is that the petitioner was appointed for the post of steno-typist and he joined duty on 20.04.1981 on temporary basis in the office of District Employment Office, Erode. Subsequently, his temporary appointment was made permanent, regularized and probation was also declared on 25.06.1984. His duty of the steno-typist is only to take down the dictations of the officer in shorthand and type the same and place it to the officer for verification and correction and only after

his approval the typed paper will be sent to the addressee or concern section.

3. While such being the position, when he was working at District Employment Office at Erode, on 11.12.2000 the then District Employment Officer Mr.Dinakar Anandaraj, received a phone call from the second respondent office for certain clarification about the registration date of candidates in respect of National Trade Certificate and National Apprenticeship Certificate. The District Employment Officer gave dictation for the matter to be typed and also dictated the seniority of registration of the candidate, which was noted by him in the list of the candidates. Accordingly, the petitioner typed the letter X2/10A48/2000 as dictated by the District Employment Officer, Erode and the same was sent to the second respondent with his initial and signature of the said officer on the same day, due to urgency without the knowledge of the Section Officer, who was not available. The entire letter was prepared and typed as dictated by the District Employment Officer.

4. Subsequently, in the same manner another letter dated 08.02.2001 was also prepared and sent to the second respondent confirming the facts by the District Employment Officer, but it was not verified by the Section Superintendent. Therefore, there was no occasion for the petitioner to verify the records for seniority of registration, which was not under his custody. However, the information of the date of registration of N.A.C. of Mr.R.Chandrasekaran, Registration No.10071/1986 was given as 22.08.1986 instead of 17.03.1988. This mistake was crept in as mistaken entry in the registration card itself. The said mistake was not done either by the petitioner or by the District Employment Officer. However, the said mistake was found at the time of verification of certificates of the said candidate at the time of Interview for selection for appointment and his selection was rejected since his seniority had to be reckoned from 17.03.1988 but not from 22.09.1986 which is the date of registration of National Training Center.

5. For the above said registration, the second respondent issued a show cause notice against the petitioner vide his proceedings in Tho.Pa.1/57732/2000-2, dated 28.01.2002 with the memo of charges. Thereafter, the Department appointed Enquiry Officer and the Enquiry Officer filed a report before the Disciplinary Authority. After perusal of the enquiry report, the Disciplinary Authority passed G.O.Ms.T.No.482 (Labour and Employment Department) (TI), dated 11.07.2006 imposing the punishment of stoppage of three increments for three years with cumulative effect. Aggrieved by the same, the present writ petition has been filed.

6. The counter affidavit filed on behalf of the respondents states that the action of the petitioner, caused undue inconvenience and created bad image upon the organization, since the petitioner is not only steno-typist but he was also the dealing

clerk whose duty is to verify the records before sending the particulars to then Director of Employment and Training. The file X2/IOA/48/2000 (Pages 97-105) reveals that in the letter dated 11.12.2000 certain portions were typed and other portions were manually written by the petitioner, especially, the seniority of N.A.C. of the candidate viz., Mr.R.Chandrasekaran, was written by him in his own hand writing with his pen and signed by him and the signature of the Junior Employment Officer was not found in the letter. Further, in the letter dated 29.10.2001, it was mentioned that records were perused by the dealing clerk and District Employment Officer and the details of seniority of N.A.C. of candidates were sent urgently to the then Director of Employment and Training in order to send it in time, in the absence of Junior Employment Officer.

7. However, the Enquiry Officer revealed in the enquiry report that witnesses and records in this case proved beyond doubt, that Thiru.Venkatachalam is responsible for wrong furnishing of the date of seniority of N.A.C. of Thiru.R.Chandrasekaran in the letter X2/IOA/48/2000, dated 11.12.2000.

8. Based on the information obtained from the District Employment Officer, Erode, through telephone message and confirmation letter in X2/IOA/48/2000, dated 11.12.2000, the Director of Employment and Training furnished the seniority of N.A.C. of Thiru.R.Chandrasekaran as 22.09.1986 to the Training Wing. Thereby, Thiru.R.Chandrasekaran was provisionally selected and was called to Directorate to verify the records. While perusing the records, it was found that the seniority of N.A.C. Thiru.R.Chandrasekaran is 17.03.1988 instead of 22.09.1986.

9. Thereby, the District Employment Officer has not issued appointment order to him. However, Thiru.R.Chandrasekaran has filed O.A.No.501/2001 before the Tamil Nadu Administrative Tribunal, based upon his provisional selection by the Director of Employment and Training. Thus, the wrong information of seniority of N.A.C. of Thiru.R.Chandrasekaran was furnished by the dealing clerk viz., the petitioner, which led for his provisional selection. However, the Government has taken a lenient view for imposing the punishment of stoppage of three increments for three years with cumulative effect.

10. The learned counsel appearing for the petitioner would submit that the petitioner is not responsible for whatever the dictation given by the higher officials to the steno cum typist and the same was typed and sent to Mr.K.Subbaraj, Assistant Director, District Employment Office and Training, Erode and the petitioner did not commit any lapses. Accordingly, even on perusal of the enquiry report, the Enquiry Officer did not conduct proper enquiry and drawn the enquiry report against the petitioner, which is unsustainable one and the punishment imposed by the first respondent is unsustainable one.

11. Heard the learned counsel appearing for the petitioner
<https://hcservices.ecourts.gov.in/hcservices/>

and the learned counsel for the respondent.

12. On perusal of the records, it is seen that the petitioner is incharge of particular seat and he is not only a steno-typist but he was also a dealing clerk and his duty is to verify the records before sending to the Director of Employment and Wing. However, the petitioner given a wrong information that the seniority of N.A.C. of R.Chandrasekaran on 17.03.1998 instead of 22.09.1986. Thereby, the District Employment Officer send a provisional selection order in favour of R.Chandrasekaran that lead to confusion. Thereby, Mr.R.Chandrasekaran filed an application in O.A.No.501/2001 before the Tamil Nadu Administrative Tribunal, which put great hardship to the Department. However, the first respondent taken a lenient view and imposed the punishment of stoppage of increment for three years.

13. In my considered opinion, it is not highly excessive or disproportionate. Accordingly, the order of punishment does not suffer any illegality or infirmity. Hence, the prayer sought for by the petitioner cannot be granted.

14. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

msm

To:

1. The Secretary to Government,
Labour and Employment Department,
Fort St. George, Chennai - 600 009.

2. The Special Commissioner,
The Office of Employment and Training,
Guindy, Chennai - 600 032.

+1 cc to the Government Pleader, High Court, Chennai SR.NO. 29551

+1 cc to Mr.R.Kannan, Advocate SR.NO. 28713

W.P.No. 31894 of 2006 and
M.P.No.1 of 2006

KK(CO)
JK 18/05/18