

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.2371 of 2018
and
C.M.P.No.18811 of 2018

Tamilnadu Khadi and Village
Industries Board,
rep. by the Chief Executive Officer,
Kuralagam, Chennai 600 108. Appellant

Versus

P.Vijayakumar Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters
Patent against the order dated 25.10.2017 passed in W.P.No.23990
of 2010 on the file of this court.

Prayer in W.P.No.23990 of 2010 :

Praying for issuance of Writ of Certioraified Mandamus to
call for the records relating to the proceedings vide No.28
dated 11.6.2008 issued by the respondent and quash the same and
consequently direct the respondent to confer all attendant and
consequential benefits on the petitioner by treating the period
from the date of removal from service from 03.06.2006 to the
date of reinstatement on 11.6.2008 as one on duty for all
purposes

For appellant : Mr.S.K.Bose

For respondent : Mr.R.Thiagarajan

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellant and
Mr.R.Thiagarajan, learned counsel, who takes notice for the
respondent.

2. The writ appeal has been filed by the Tamil Nadu Khadi
and Village Industries Board, challenging the order passed by

the learned Single Judge in allowing the writ petition and thereby quashing the impugned order imposing punishment upon the respondent and directing for grant of monetary benefits.

3. It appears that the writ petitioner/respondent herein is employed as Junior Assistant in the appellant-Board and three charges were levelled against him, the first being that he had unauthorisedly corrected the attendance register for a period from 14.10.2003 to 22.10.2003, the second one being that he had attended the duty in a drunken state and behaved in an unbecoming manner by abusing his colleagues and third being that he had quarrelled with public while discharging his duties. It further appears that the third charge was dropped by the Department itself. According to the writ petitioner, the criminal case filed against him with regard to the second charge ended in acquittal, however, the departmental proceedings so far as the first two charges are concerned, ended in dismissal from service and on appeal before the appellate authority, it was reduced to a punishment of stoppage of increment for a period of two years without cumulative effect. Aggrieved against such punishment, the respondent herein moved the writ petition.

4. The learned Single Judge having observed that no proper procedure was followed while imposing original punishment of dismissal from service which was subsequently modified by the Board on appeal by the respondent herein and mere statement obtained from the writ petitioner and a report, cannot be the basis for imposing such punishment upon the writ petitioner, held that it is clear case of no evidence in respect of all the charges and therefore, the impugned penalty cannot at all be countenanced both in law and on facts and mere allegations against the writ petitioner, would remain as allegations and the same cannot entail any penal action by the Board against the employee.

5. We have heard the learned counsel appearing for the parties and gone through the materials available on record.

6. When certain of the papers like medical certificate were produced to prove that he was under intoxication, it appears that the same have not been taken note by the learned Single Judge. It is unlike the criminal trial, strict proof of case beyond doubt is unnecessary and preponderance of probability is sufficient in departmental proceedings. Moreover, in a disciplined Department, it would be expected that one should be dutiful. Of course, considering the nature of charges levelled

against the respondent herein, the punishment of dismissal from service imposed is unwarranted. But, at the same time, he cannot be permitted to go scot-free for having indulged in misconduct of unauthorised handling of attendance register and attending the duty in a drunken state.

7. Therefore, we are of the view that the order passed by the learned Single Judge warrants interference. Accordingly, the writ appeal is allowed, setting aside the order passed by the learned Single Judge and thereby restoring the order of punishment passed by the appellate authority, imposing a punishment of stoppage of increment for a period of two years without cumulative effect. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

ssk.

To:

The Chief Executive Officer,
Tamilnadu Khadi and Village
Industries Board,
Kuralagam, Chennai 600 108.

+1cc to M/s.S.K.Bose, Advocate SR.No.73832

W.A.No.2371 of 2018

NRI (CO)

GMV (27/11/2018)

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