

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.22154 of 2012

M.Manimala

.. Petitioner

vs.

1.The Principal Secretary  
Rural Development and  
Panchayat Raj Department  
Secretariat, Fort St.George  
Chennai-600 009.

2.The Deputy Secretary (SGS)  
Rural Development and  
Panchayat Raj Department  
Secretariat, Fort St.George  
Chennai-600 009.

3.The Under Secretary (SGS)  
Rural Development and  
Panchayat Raj Department  
Secretariat, Fort St.George  
Chennai-600 009.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus to call for records pertaining to the office proceedings of the 1<sup>st</sup> respondent in Office proceedings No.203, dated 21.04.2011 imposing a punishment of stoppage of increment for a period of one year and quash the same as it is against the procedures for disciplinary proceedings and is based upon wrong invocation of Rule 20 of the Tamil Nadu Government Servants' Conduct Rule, 1973 and invalid charges, and consequently, direct the 1<sup>st</sup> respondent to grant all the resultant benefits to the petitioner.

For Petitioner : Mr.R.Rajendran  
For R1 to R3 : Mr.R.S.Selvam  
Government Advocate

## O R D E R

Writ Petition is filed for issuance of a writ of Certiorarified Mandamus to call for records pertaining to the office proceedings of the 1<sup>st</sup> respondent in Office proceedings No.203, dated 21.04.2011 imposing a punishment of stoppage of increment for a period of one year and quash the same as it is against the procedures for disciplinary proceedings and is based upon wrong invocation of Rule 20 of the Tamil Nadu Government Servants' Conduct Rule, 1973 and invalid charges, and consequently, direct the 1<sup>st</sup> respondent to grant all the resultant benefits to the petitioner.

2(i). While the petitioner was working as a Section Officer in the Department of Rural Development and Panchayat Raj, Secretariat, six charges were levelled against the petitioner under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The petitioner submitted her explanation. The 1<sup>st</sup> respondent considering the charges and explanation submitted by the petitioner imposed punishment of stoppage of increment for a period of one year without cumulative effect.

2(ii) According to the petitioner, first charge relates to unauthorised absence for two days on 31.01.2011 and 01.02.2011. The petitioner due to her ill-health could not attend the office and on 30.01.2011, she informed the Assistant Section Officer and the Under Secretary over phone for leave on 31.01.2011. Due to her ill-health, she could not attend the office on 01.02.2011 also. On 02.02.2011, she attended the office, submitted the leave letter and informed about her ill-health to the Under Secretary (SGS) and Under Secretary (OP). The leave letter submitted by the petitioner was accepted and leave was sanctioned.

2(iii) As far as fourth and fifth charges are concerned, they are vague and trivial in nature. According to the petitioner, all the staff in the Section are in different to her and the complaint given by her in the defence to the 1<sup>st</sup> respondent was not considered by him.

2(iv) As far as second and third charges are concerned, she got permission to leave the office one hour early i.e., at 4.30 p.m. At 3.00 p.m., she got a phone call from the school in which her 11 year old daughter was studying, informing that her daughter is suffering from wheezing problem. On receiving the phone call at 3.00 p.m., she tried to get permission from the Under Secretary (SGS)/3<sup>rd</sup> respondent herein to take her daughter to a physician, but he was not in his room and she nearly waited for 10 minutes. Since the 3<sup>rd</sup> respondent did not turn up to his room, she left the office a little early instead of 4.30 p.m.

While she was on the way to the school in a perturbed state of mind with anguish and physical pain, the 3rd respondent contacted her over phone. She explained the reason for leaving the office earlier and requested him to transfer her to her parent Department (Education Department), if he is not satisfied with her work.

3.The learned counsel appearing for the petitioner submitted that the petitioner has submitted explanation for the charges levelled against her. The 1<sup>st</sup> respondent without properly appreciating the charges and explanation submitted by her in a mechanical manner, held that the charges have been proved and imposed punishment. The petitioner has not committed any misconduct and prayed for quashing the impugned order.

4.The respondents have not filed counter affidavit. Mr.R.S.Selvam, the learned Government Advocate appearing for the respondents submitted that the petitioner has already been transferred from the respondents' Department to Energy Department, all her files had been transferred to the Energy Department and the appeal filed by the petitioner has also been transferred to Energy Department for further action. He further submitted that subsequently, the petitioner was transferred to Social Welfare and Nutritious Meal Programme Department and subsequently, transferred to Home Department during 2013. From the year 2013 onwards, the petitioner was absent and only now she has joined duty in the Home Department and hence, the respondents are unable to file counter.

5.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the materials available on record.

6.From the materials available on record, it is seen that the petitioner did not attend the office on 31.01.2011 and 01.02.2011. According to the respondents, it is unauthorised absence. On the other hand, it is the contention of the learned counsel appearing for the petitioner that the petitioner informed over phone to the Assistant Section Officer as well as 3<sup>rd</sup> respondent about her ill-health and sought for leave on 31.01.2011. It is her further contention that due to her ill-health, she did not attend the office on 01.02.2011 and on 02.02.2011, when the petitioner attended the office, she submitted the leave letter to the 3<sup>rd</sup> respondent, the same was accepted and leave was sanctioned. This specific contention of the learned counsel appearing for the petitioner was not disputed by the respondents. Similarly, the fourth and fifth charges levelled against the petitioner are vague and lack of particulars as to when she committed this misconduct. The contention of the learned counsel appearing for the petitioner

in this aspect has considerable force and acceptable.

7.As far as second charge is concerned, it is not in dispute that the petitioner was granted permission to leave the office one hour early within the office hour i.e., at 4.30 p.m. She has left the office at 3.00 p.m. itself. According to the petitioner, she tried to get permission from the 3<sup>rd</sup> respondent, but he was not available in his room, she waited for 10 minutes and left the office, due to the urgent call from the school, where her 11 year old daughter was studying. This shows that the petitioner left the office at 3.00 p.m. without permission. Similarly, when she was contacted by the 3<sup>rd</sup> respondent over phone while on the way to school, she has explained the reason for leaving the office earlier and tried to get permission. At the same time, she requested the 3<sup>rd</sup> respondent to transfer her to the parent Department (Education Department), if he is not satisfied with the work. This is the only misconduct for which action can be taken against the petitioner.

8.From the above materials and the impugned order, it is seen that the 1<sup>st</sup> respondent has not properly appreciated the explanation submitted by the petitioner in respect of the charges 1, 2 and 4 to 6. In respect of the alleged third charge, the punishment of stoppage for increment for one year without cumulative effect is disproportionate to the said charge levelled against her. For the above reason, the impugned order is liable to be set aside and it is hereby set aside.

9.In the result, the writ petition stands allowed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kj

To

1.The Principal Secretary  
Rural Development and  
Panchayat Raj Department  
Secretariat, Fort St.George  
Chennai-600 009.

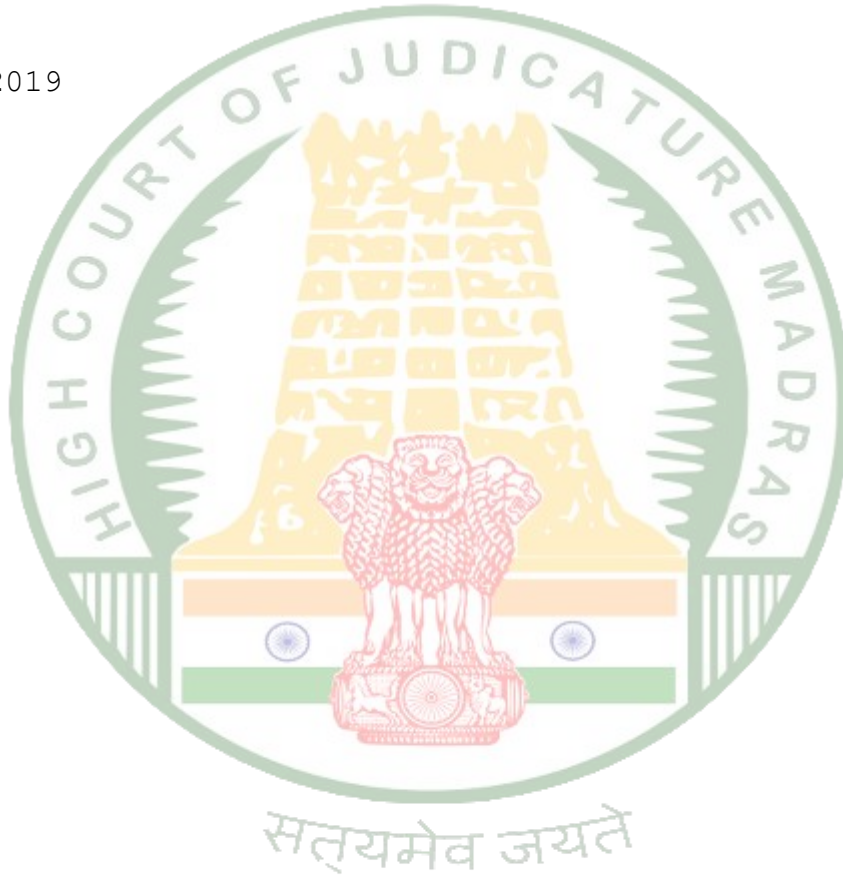
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3.The Under Secretary (SGS)  
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+1cc to Government Pleader sr.47530  
+1cc to Mr.R.Rajendran, Advocate sr.47786

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