BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2019

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.3751 of 2013

and

M.P.(MD).Nos.1 and 2 of 2013

Subramanyan ... Petitioner

Vs.

1.The Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai - 600 009.

2.The Director of Public Health Services,
Chennai - 600 015.

3.The Commissioner of Treasuries and Accounts,
Chennai - 600 015.

4.The District Treasury Officer,
Pudukkottai District - 622 005. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records relating to the order passed by the first respondent in his proceedings in G.O.(D).No.1325, Health and Family Welfare (D1) Department, dated 18.12.2012 and quash the same.

For petitioner : Mr.N.Balakrishnan

For respondents : Mr.S.Dhayalan,
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the first respondent, dated 18.12.2012, whereby and whereunder the first respondent imposed a punishment of stoppage of increment for one year with cumulative effect, besides the recovery of Rs.1,50,518/- from the petitioner.

2. It is the case of the petitioner that the petitioner was appointed as Junior Assistant (Security) on 07.12.1994 through TNPSC at Sub-Treasury Office, Aranthangi, Pudukkottai District. He was assigned the work of issuing token to the bills presented for

encashment, after noting the token number in the bills and sent the same along with Tamil Nadu Treasury Code Register No.70 to the Accountant. It is the duty of the Accountant to verify the correctness of the bill regarding the total amount, net amount and also the entries in TNTC 70 register and he has to further verify the TNTC 103 Register regarding messenger's name and to forward the same to the Sub-Treasury Officer for passing the bills for payment through the concerned Branch of State Bank of India, after satisfying himself about the correctness and genuineness of the bills. While so, on 21.03.2000 a charge memo under Rule 17(a) of the Tamil Nadu Civil Service (Classification, Control and Appeal) Rules, was issued against the petitioner; Accountant, Sub Treasury, Pudukkottai and nine others. The charge against the petitioner is that he has failed to verify TNTC 70, such as the name of the Messenger deputed for encashment of bills at the Treasury, which leads to negligence on the part of the Treasury in discharging official duties. After receipt of the petitioner's explanation, it was kept in abeyance. Under these circumstances, the first respondent issued a charge memo under Rule 17(b), after a lapse of eights years alleging that the petitioner has admitted and issued tokens to the bills listed in Annexure II without verifying the total amount of the Bill in Col.No.5 and the name of the Messenger deputed for encashment of bill in Col.No.6 of the TNTC 70. The petitioner has submitted his explanation to the charges. The Enquiry Officer has submitted his report on 09.03.2010 stating that the charges are proved to the extent of Rs.20,652/-. But, in the impugned order, the Government has imposed a punishment of stoppage of increment for one year with cumulative effect besides recovery of Rs.1,50,518/- stating that as the prime accused Mr.P.Raghunathan, Junior Assistant, Primary Health Centre, died, the Government has decided to waive 75% of the total misappropriation amount of Rs.34,95,275/-, and to recover 25% from the delinquent Officers in the Directorate of Public Health and Revenue Medicine, and Treasury Officials in the ratio of 3:2, besides suitable punishment. Challenging the said order, the petitioner is before this Court.

3. The learned counsel for the petitioner submitted that he is duty bound to issue token to the Messenger with reference to TNTC 70 Register and TNTC 103 form enclosed with the Bill and to forward the same to the Accountant. The petitioner is not empowered to return the bill for any omission or correction found in the bill or TNTC 70 Register. The omissions and corrections in TNTC 70 register and the bills have to be verified by the Accountant and Sub Treasury Officer. He would further submit that the alleged misappropriation of Rs.34,95,275/- was stated to be done for the period from 01.12.1991 to 31.03.1998 by presenting bogus and fake bills by one Mr.P.Raghunathan, the then Junior Assistant in Primary Health Centre of Singavanam, Avudaiyarkoil

Taluk, Pudukkottai, but the petitioner joined duty as Junior Assistant (Security) in the Sub-Treasury Office, Aranthangi, only on 07.12.1994 without imparting any training and therefore, he had received the bills as it was done earlier. He would further submit that one S.Muthukrishnan, who was working as Accountant in the Treasury Department and who was responsible for checking correctness and genuineness of bill, has been imposed with a penalty of recovery of Rs.6,000/-. But, the petitioner, who is a last grade servant and who has responsibility of issuing token for the bills, has been disproportionately imposed with a penalty of Rs.1,50,578/-. Thus, he prayed to set aside the impugned order.

4. The learned Government Advocate appearing for the respondents submitted that the duty of the post of Junior Assistant (Security) is not only issuing of token for the bills but also to see that all the columns of the TNTC 70 and TNTC 103 Form enclosed with the bills are filled up without omission. He would further submit that though the correctness of the bills presented are verified by the Accountants, it is the foremost duty of the Junior Assistant (Security) to see that the tokens are issued only to the Messenger alone, whose name is noted in the Column of TNTC 70 so that the tokens should not be misused. But, the petitioner has not verified as to whether the name of Messenger is filled up or not and as to whether the tokens have been issued only to the Messenger alone. Therefore, by the impugned order, the petitioner was rightly punished by the first respondent. He would further submit that though there was misappropriation of Rs.34,95,275/-, the Government has graciously waived 75% of the loss amount and ordered to recover only 25% of the amount, that too in 3:2 ratio and in the proportion of the amount, a sum of Rs.1,50,518/- was directed to be recovered from the salary of the petitioner on 19 installments. There is no need to interfere with the order passed by the first respondent. Thus, he prayed to dismiss this writ petition.

5. Heard the learned counsel for both sides and perused the records carefully.

6. Admittedly, the misappropriation of Rs.35,95,275/- was stated to be done by one Mr.P.Raghunathan, the then Junior Assistant of Primary Health Centre, Singavanam, by producing bogus bills during the period 01.12.1991 to 31.03.1998 in the Sub-Treasury, Aranthangi. It is not in dispute that the petitioner joined duty at Sub-Treasury Office, Aranthangi, Pudukkottai District, only on 07.12.1994 as Junior Assistant (Security). The petitioner was charged with the allegations of having admitted and issued tokens to the bills without verifying the total amount of the bills in Col.No.5 and the name of the messenger deputed for encashment of bill in Col.No.6 of TNTC 70 Register.

7. Though it is stated by the petitioner that the duty of the Junior Assistant (Security) is only to receive the bills and issue token for the bills after noting the token number in the bills and that he was not empowered to return the bills for the omission and commission, he has not substantiated the same by producing any materials. More over, the submission of the petitioner appears to be that he only acted as a postman, which cannot be accepted. As rightly stated by the learned Government Advocate, before issuing token, the petitioner ought to have verified as to whether the name of the messenger deputed for encashment of bill has been mentioned in the column of the bill and seen that the token has been received only by the person whose name mentioned in the bill. It is seen that in the defence statement, the petitioner himself admitted that the lapse pointed out happened in the early stages of his joining duty, that too without imparting any training. It is only a procedural lapse, which has no tangible connection to the malpractice committed by the staff of the Primary Health Centre, Singavanam. Therefore, this Court is of the view that the first respondent is right in imposing punishment of stoppage of increment for one year with cumulative effect. However, considering the fact that the petitioner is a last grade servant and he was a new entrant at the time of occurrence, this Court is inclined to set aside the order of recovery of Rs.1,50,518/- against the petitioner. Accordingly, the impugned order is set aside only in respect of order of recovery of Rs.1,50,518/- from the petitioner. Amount, if any, already recovered shall be refunded to the petitioner.

8. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

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Sub Assistant Registrar(CS)

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To

1.The Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai - 600 009.

2.The Director of Public Health Services,
Chennai - 600 015.

3.The Commissioner of Treasuries and Accounts,
Chennai - 600 015.

4.The District Treasury Officer,
Pudukkottai District - 622 005.

+1 CC to Mr.N.BALAKRISHNAN, Advocate (SR-104035[F] dated 09/12/2019)

+1 CC to SPL GP (SR-104202[F] dated 10/12/2019)

W.P(MD)No.3751 of 2013
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