



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2019

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P[MD]No.601 of 2014

WEB COPY

C.Sadasivam

... Petitioner

Vs.

1.The Secretary to Government,
Animal Husbandry and Fisheries Department,
Chennai - 600 009.

2.The Director of Fisheries,
Chennai - 600 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari, calling for the records relating to the impugned G.O.[D]No.208 dated 01.10.2013 of the first respondent confirming the order of punishment passed by the second respondent and to quash the same as illegal.

For Petitioner : Mr.T.S.Mohammed Mohideen
for Mr.M.Mohanasundram

For Respondents : Mr.D.Muruganantham AGP

O R D E R

This Writ Petition has been filed for a Writ of Certiorari, calling for the records relating to the impugned G.O.[D]No.208 dated 01.10.2013 of the first respondent confirming the order of punishment passed by the second respondent and to quash the same as illegal.

2.Heard the learned Counsel for the parties.

3.When the petitioner was working as a Special Officer in Muthukada Fishermen Co-operative Society at Pudukkottai District, the second respondent initiated disciplinary proceedings against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services Discipline and Appeal Rules. As per the charge memo dated 06.04.2004 serious allegations of misappropriation was made against the petitioner. After giving sufficient opportunity to the petitioner to submit his explanation, since the petitioner denied the charges, domestic enquiry was ordered.

4.It is not in dispute that the petitioner was given sufficient opportunity to participate and put forth his submissions in defence. The Enquiry Officer, found that out of seven charges, Charge Nos.3



and 5 are disproved and that Charges 1, 2, 4, 6 and 7 were proved. Based on the report of the enquiry Officer, the disciplinary authority, issued the second show cause notice and after getting the explanations / objections from the petitioner with regard to the finding of the enquiry officer, the disciplinary authority namely, the second respondent passed the impugned order imposing the punishment on the petitioner by stopping the increment for a period of three years with cumulative effect. The order of the second respondent was challenged by the petitioner before the first respondent who rejected the appeal by the impugned order vide G.O. [D]No.208 dated 01.10.2013. Challenging the said Government Order, the present writ petition is filed.

5.The petitioner was the Special Officer in a Fishermen Cooperative Society. From the charges it is seen that the petitioner is accused of misappropriation of a huge amount which was meant to be disbursed to the members of the Fishermen Cooperative Society. The fund that was misappropriated was allotted by the National Fishermen Savings cum Relief Fund. Stating that the fund that was received from the National Fishermen Savings cum Relief Fund was misappropriated by the petitioner by creating false records, the first charge was held to be proved. Similarly, the petitioner was also charged for temporary misappropriation of huge sum vide Charge Nos.3 and 4. The petitioner had full opportunity before the Enquiry Officer to substantiate his case that the amount allegedly misappropriated by the petitioner has been accounted. The petitioner's version that one Manoharan who had issued receipts acknowledging the receipt of money from the petitioner has stolen the receipts from the petitioner was not believed by the enquiry officer as well as by the disciplinary authority.

6.Having regard to the nature of charges and the proof for such serious charges against the petitioner, the punishment awarded to the petitioner is only an increment cut for a period of three years with cumulative effect. The fact that the petitioner has been found guilty of temporary misappropriation is also supported by materials and the petitioner has not demonstrated before this Court as to how the finding of enquiry officer or disciplinary authority are erroneous. Having regard to the scope of judicial review, this Court has no reason to interfere with the order of punishment passed by the second respondent and confirmed by the first respondent.

7.Accordingly, this Writ Petition is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //



1.The Secretary to Government,
Animal Husbandry and Fisheries Department,
Chennai - 600 009.

2.The Director of Fisheries,
Chennai - 600 006.

+1 CC to Mr.T.S.MOHAMED MOHIDHEEN, Advocate (SR-99374[F] dated 19/11/2019)

+1 CC to SPL GP (SR-99982[F] dated 20/11/2019)

W.P[MD]No.601 of 2014
19.11.2019

MK (17.12.2019) 3P 5C