

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.17523 of 2007

O.A.28/2004

K.Meenakshi

.. Petitioner

Vs

The Panchayat Union Commissioner,
Vallam Panchayat Union,
Vallam, Villupuram District.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking issuance of a writ of certiorarified mandamus, to call for the records of the respondent relating to his order in Pro.Na.Ka.No.A4/3126/2001 dated 30.1.2003, quash the same and issue directions to the respondent to reinstate the petitioner in service with consequential monetary benefits.

For Petitioner : Mr.R.Thanjan

For Respondent : Mr.K.Magesh

Special Government Pleader

O R D E R

The prayer made in this writ petition is to issue a writ of certiorarified mandamus to quash the order of the respondent dated 30.1.2003 and consequently direct the respondent to reinstate the petitioner in service with all monetary benefits.

2. According to the petitioner, she was initially appointed as a Cook in the Noon Meal Centre at Government High School, Melchithanur in the Vallam Panchayat Union in the year 1984. Thereafter, she was transferred to Noon Meal Centre at Eachur, due to certain allegations and complaints made against her by the public. It is further stated that due to her ill health, she did not accept her transfer order and join in the Noon Meal Centre at Eachur. But, she filed an application in O.A.No.793 of 2002 before the State Administrative Tribunal and obtained an order of interim stay. Challenging the said interim order, the respondent Panchayat filed a writ petition and

obtained an order of interim stay. Thereafter, the respondent issued a charge memo containing six charges against the petitioner, to which, explanation was submitted by the petitioner. Subsequently, the respondent by memo dated 13.5.2002 framed additional charge alleging that even after appointing her as Cook, she had received pension for widows for three months and thereby cheated the Government. Thereafter, enquiry officer was appointed. After due enquiry, the enquiry officer submitted his report holding that the charges levelled against the petitioner were proved, based on which, the Disciplinary Authority passed an order imposing a punishment of removal from service. Aggrieved over the same, the petitioner has filed the present writ petition.

3.The learned counsel for the petitioner submitted that the petitioner was falsely implicated in this case and due to her ill health, she did not join the duty at Eachur. Further, she had properly submitted her leave application to the respondent for her absence and also given her explanation. However, the respondent Panchayat, without considering her explanations and without providing an opportunity of personal hearing to the petitioner and also examining any one of the witnesses, passed the order of removal from service, based on the findings of the Enquiry officer. The learned counsel further submitted that the punishment imposed on the petitioner is disproportionate to the charges levelled against her and hence, the writ petition may be allowed by setting aside the order impugned herein.

4.The learned Special Government Pleader for the respondent submitted that the petitioner was appointed as a Cook in the Government School and she had not provided the Noon Meal to the school children properly and also taken away the food articles to some other places. In this regard, certain complaints were received from the public, based on which, the petitioner was transferred from Noon Meal Centre at Melchithanur to Eachur. The learned Special Government Pleader further submitted that on receipt of the transfer order, the petitioner falsely submitted the leave application and refused to join duty in the newly transferred place and obtained interim stay before the Tribunal. Challenging the said interim order, the respondent Panchayat filed a writ petition and obtained an order of interim stay. Subsequently, the petitioner was suspended from service and the respondent issued a charge memo. After due enquiry, she was awarded with the punishment of removal from service as the charges levelled against the petitioner were proved, by the order impugned herein, which is perfectly right and the same warrants no interference at the hands of this Court.

5.Heard the learned counsel for the petitioner and the

learned Special Government Pleader for the respondent and also perused the materials available on record.

6.The facts remain undisputed are that the petitioner was working as a Cook in the Noon Meal Centre at Government High School, Melchithanur and was transferred to Eachur due to administrative reasons. Subsequently, she was issued with a charge memo, containing the following charges:

'Charge No.1: Failure of the petitioner to receive the transfer order on 2.1.2002.

Charge No.2: Indisciplinary act by abusing the officials on 2.1.2002 in the verandah of the office.

Charge No.3: Failure to join duty at Eachur on 11.1.2002 after received the transfer order on 10.1.2002 by falsely stating that she fell sick while proceeding to Eachur.

Charge No.4 :False statement in the leave application dated 16.1.2002 that she was suffering from Asthma and hence could not proceed to Eachur and join duty.

Charge No.5:Causing inconvenience to the administration through one Thiru Tha Veliappan, while she had been transferred to Eachur for administrative reasons.

Charge No.6:Causing terror in the office on 26.2.2002 by her act in h having cone along with about 25 of her henchmen and in having demanded the officials to allow her to continue to serve at Melchithmur pursuant to the stay order of the Tribunal.'

To the said charge memo, the petitioner duly submitted her explanation. Being dissatisfied with the explanation, an Enquiry officer was appointed. After due enquiry, the Enquiry officer submitted his report holding the charges levelled against the petitioner as proved. Based on the same, the respondent awarded the punishment of removal of the petitioner from service.

7. It is the specific contention of the learned counsel for the petitioner that without providing sufficient opportunity to the petitioner to defend her case, the disciplinary authority passed the impugned order of removal from service against the petitioner, placing reliance on the report submitted by the Enquiry Officer, which is arbitrary, illegal and against the principles of natural justice. It is also contended that the

punishment imposed on the petitioner is disproportionate to the charges framed against her.

8. The contentions so raised on the side of the petitioner, have been seriously refuted by the learned Special Government Pleader appearing for the respondent. According to him, after enquiry, the Enquiry Officer held the charges proved against the petitioner, based on which, the disciplinary authority passed the order of removal from service against the petitioner, which is perfectly valid in law and hence, the same does not call for any interference by this Court.

9. Admittedly, the petitioner was working as a Cook in a noon meal centre. Without knowing the purpose of the Scheme, which is to provide midday food to poor children in order to promote education, she committed misconduct in discharging her duty. Pointing out the same, various complaints were received from the general public. Based on the same, on administrative grounds, she was transferred to some other noon meal centre. But she adamantly refused to join the newly transferred place and thereby disobeyed the order passed by the respondent and she further, went on leave unauthorisedly. Therefore, she was inflicted with the punishment of removal from service.

10. This Court is of the view that failure to discharge her duty is a serious misconduct; and refusal to obey the order passed by the higher authority is also an act of indiscipline. Such acts on the part of the petitioner are serious in nature and the same cannot be slightly brushed aside. Taking note of the fact that the petitioner has not given proper explanation to the charges and also considering the other materials available on record, the punishment of removal from service imposed on the petitioner is certainly proportionate to the charges levelled against her and the same does not call for any interference.

11. Though a feeble argument was made by the learned counsel for the petitioner that the petitioner was not provided sufficient opportunity to defend her case, the same does not attract the confidence of this Court as it is well settled that failure to examine witnesses, who had either given a complaint or whose statements had been recorded in the enquiry, would not vitiate either the departmental enquiry or the punishment imposed as long as the evidence adduced in the enquiry sufficient to establish the charges levelled against the delinquent employee [Refer: the East India Hotels v. Their Workmen, AIR 1974 SC 696; State of Haryana v. Rattan Singh, AIR 1977 SC 1512; and J.D.Jain v. State Bank of India, 1982-I-LLJ-54]. It is also settled law that in a domestic enquiry, guilt need not be established beyond reasonable doubt, that proof of misconduct would be sufficient.

12. For the discussions held above, this Court is of the opinion that the petitioner has not made out any ground to interfere with the order impugned herein. Hence, the writ petition sans merits and is accordingly, dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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To

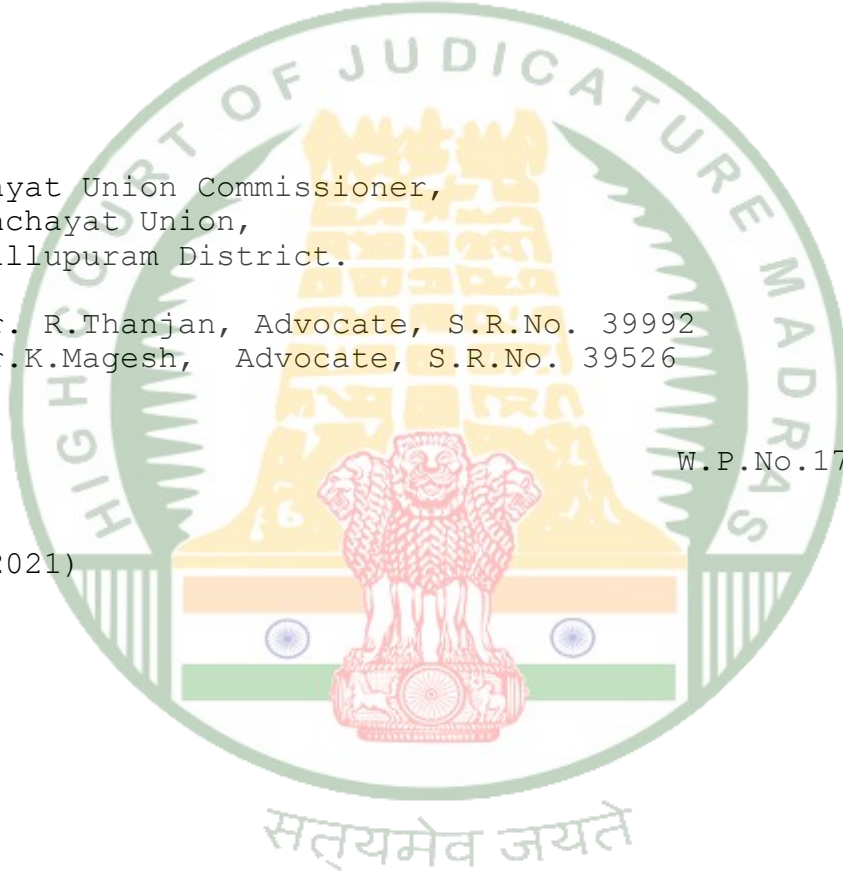
The Panchayat Union Commissioner,
Vallam Panchayat Union,
Vallam, Villupuram District.

+1cc to Mr. R.Thanjan, Advocate, S.R.No. 39992

+1cc to Mr.K.Magesh, Advocate, S.R.No. 39526

W.P.No.17523 of 2007

PM(CO)
GN(19/01/2021)



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