

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2020

CORAM

THE HONOURABLE MR.JUSTICE P. VELMURUGAN

W.P. No. 31716 of 2007
and
M.P. No. 1 of 2009

N. Jothi

... Petitioner

-vs-

The State of Tamil Nadu,
Represented by the Special Commissioner and
Secretary to Government,
Department of Animal Husbandry, Dairying and
Fishing, Secretariat, Fort St. George,
Chennai - 600 009.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India, praying for issuance of Writ of
Certiorari, calling for the records of the respondent in G.O.
(3-D) No. 13 dated 16.05.2007 and to quash the same.

For Petitioner : Mr. L. Chandrakumar

For Respondent : Mr. K. Mahesh

Special Government Pleader

O R D E R

The petitioner has filed this Writ Petition to call for the
records of the respondent in G.O. (3-D) No. 13 dated 16.05.2007
and to quash the same.

2. The case of the petitioner is that, the petitioner was
working as an Assistant in the office of Regional Joint
Director, Department of Animal Husbandry, Trichy. He joined the
Government service in the year 1982. In the year 2004, a charge
memo was issued against the petitioner and two others. Even
though separate article of charges were issued to him and other
two officials, a common enquiry was conducted as the alleged
irregularity in the purchase of Siddha & Ayurvedic Medicines.
Therefore, enquiry was conducted and the respondent accepting
the enquiry report, imposed a punishment of Rs.100/- cut in
pension for a period of three years for the first delinquent and

as against the petitioner imposed a punishment of stoppage of increment for a period of two years with cumulative effect. Challenging the said order, he has filed the present Writ Petition before this Court.

3. The learned counsel appearing for the petitioner would submit that, the explanation submitted by the petitioner was not properly considered by the Enquiry Officer as well as the Disciplinary Authority. Even though separate articles of charges were issued to the petitioner and two others, a common enquiry was conducted, thereby, proper opportunity has not been given to the petitioner to defend the case independently. Further for the delinquent No.1, the punishment is only Rs.100/- cut in pension for a period of three years, whereas, the petitioner was awarded the punishment of stoppage of increment for a period of two years with cumulative effect, which is nothing but discrimination. Therefore, on the ground of discrimination, the impugned order is liable to be set aside.

4. Further, the learned counsel appearing for the petitioner contended that the petitioner admitted the wrong entry of receipt of all medicines in the stock register, but there is no discussion on this fact by the enquiry officer. Further the representation given by the petitioner has not been properly considered and punishment has been awarded to the petitioner which is shockingly disproportionate.

5. Mr. K. Magesh, learned Special Government Pleader appearing for the respondent would submit that, the charges leveled against the other delinquent and the petitioner are different and the role of the petitioner and other delinquent also different. The petitioner knowing very well that, entire shortage has not come to the office on the particular date, made entries as the latest stock and also the delinquents have not ultimately sent a letter to the company stating that there was shortage of stock, though the delinquents have stated that they have written a letter with respect to shortage and the said letter has been dispatched to the company which supplied the medicine. Further, the charges leveled against the petitioner was proved and the explanation offered by the petitioner was not acceptable.

6. Even before the enquiry, PW1 has categorically stated the dates on which the company supplied the medicine and the date on which they received. But on the said date, the entire medicines have not been supplied by the company and there was shortage. Further, they have received the medicines with shortage on 28.03.2002 whereas, they made the entries on 31.03.2002 as if they got all the medicines on 28.03.2002 itself, however no letter sent regarding shortage of medicines.

7. Therefore, it is clear that the petitioner made wrong entries and thereby committed misconduct which are grave in nature. Therefore, the charges leveled against the petitioner and two others are proved. Subsequently, enquiry has also been conducted. Not satisfied with the explanation, the Enquiry Officer found that the charges leveled against the petitioner has been proved and based on the enquiry report the disciplinary authority imposed the punishment of stoppage of increment for a period of two years. The charge leveled against both the delinquent No.1 and the petitioner is not one and the same and since the delinquent No.1 Officer already got retired at the time of imposing punishment, the contention of discrimination raised by the learned counsel for the petitioner is not acceptable and the same has to be rejected.

8. I have heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondent and perused the materials placed before this Court.

9. The petitioner was working as an Assistant in the office of Regional Joint Director, Department of Animal Husbandry, Trichy. In the year, 2004, a charge memo was issued against the petitioner and two others and after due enquiry, based on the findings that the charges are proved against the petitioner, punishment was imposed. Therefore, this Court does not find any violation of principles of natural justice in the enquiry held. Further, it is seen that though common enquiry was conducted, charge memo was issued separately to all the three persons who were delinquents and also called for explanation individually and subsequently witness has clearly spoken regarding the role played by the each delinquent separately.

10. Admittedly, the petitioner was served with the charged memo, wherein two charges were leveled against him and the same reads as follows:

"Charge-I

That the said Tmt. Jothi while working as Assistant in the Office of Regional Joint Director of Animal Husbandry, Trichy has made false entries in the Stock Registers as if all the medicines were received on 28.03.2002, whereas the medicines were received, much later and also there was a shortage of medicines worth Rs.30,076,25/-.

Charge-II

That she had corrected and made so many overwritings on the particulars like date in the letter in the purchase file of Siddha and

Ayurvedic medicines for the Trichy Region, during 2001-2002, and inserted anti-dated letters in that file."

11. As far as charge No.1 is concerned, PW1 clearly stated that medicines were dispatched on 28.03.2002 whereas the entire medicines were received only on 31.03.2002, since there was shortage of medicines which were dispatched on 28.03.2002. Therefore, the contention of the learned counsel for the petitioner is not acceptable and the charges leveled against the petitioner was clearly proved, though the learned counsel appearing for the petitioner would submit that, delinquent No.1 is a superior officer / controlling officer and the petitioner acted as per the directions given to her.

12. As a public servant, petitioner is entrusted with duties and responsibilities and the petitioner was entrusted with the duty to make entry after receiving the medicines. After verification, petitioner has to make entry in the register, but he has not acted in accordance with the duty entrusted to him. In this regard, she failed to do the same and further as far as charge No. 2 is concerned, the petitioner has over written the entries but no letter was dispatched to the company which supplied the medicines with shortage. As such, petitioner has acted against the interest of the department and therefore the second charge was also proved and hence, there is no violation of the principles of natural justice.

13. Though the petitioner counsel stated that there was a discrimination in awarding the punishment to delinquent No.1 Officer and the petitioner, a reading of entire materials, available on record would go to show that the role of the petitioner and the delinquent are entirely different and the responsibility of delinquent No.1 and the petitioner is also different and the witness has stated about the role played by the petitioner and also the irregularities committed by the petitioner.

14. The learned Special Government Pleader has further submitted that, delinquent No.1 Officer has already got retired, however punishment of Rs.100/- cut in pension for a period of three years was imposed on him. In so far as petitioner is concerned, punishment of stoppage of increment for a period of two years with cumulative effect was imposed.

15. Therefore, considering the charges leveled against the petitioner and the proven charges, this Court does not find any infirmity in the punishment awarded against the petitioner and it cannot be said to be shockingly disproportionate. In view of the foregoing observations, Writ Petition is devoid of

merits and the same is liable to be dismissed. Accordingly, this Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vji
To

The Special Commissioner and
Secretary to Government,
The State of Tamil Nadu,
Department of Animal Husbandry, Dairying and
Fishing, Secretariat, Fort St. George,
Chennai - 600 009.

+1 CC to Mr.L. Chandrakumar, advocate sr 40453.
+1 CC to The Government Pleader sr 40941.

W.P. No. 31716 of 2007 and
M.P. No. 1 of 2009

KK(CO)
SP(03/02/2021)



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