

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09 / 09 / 2020

CORAM:

THE HON'BLE MR. JUSTICE M.GOVINDARAJ

W.P.NO.10252 of 2005

R.Lakshmi

... Petitioner

Vs.

1.Special Commissioner
and Secretary to the State of Tamil Nadu
Transport (H) Department,
Fort St.George, Chennai – 600 009.

2.The Director,
Motor Vehicles Maintenance Department,
TNHB Shopping Complex,
Ashok Nagar, Chennai – 600 083.

3.Director,
Department of Environment,
Ground Floor, Panagal Buildings,
Saidapet, Chennai – 600 015.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
praying for the issuance of Writ of Certiorari to call for the records G.O.(2D)
No.4 Transport (h1) Department, dated 21.2.2005 on the file of the first

respondent and quash the order dated 21.2.2005 in G.O.(2D) No.4 Transport (h1) department passed by the first respondent.

For Petitioner : Ms.S.Padma

For Respondents : Ms.R.Janaki
Additional Government Pleader

ORDER

The petitioner was appointed as Junior Assistant in Motor Vehicles Maintenance Department in the year 1985 and promoted Assistant and deputed to Environment Department on 02.09.1998 while so a charge memo dated 29.01.2001 was served on the petitioner under Section 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, for dereliction of duty in the matter of maintaining compassionate ground appointments. Totally nine charges were framed against the petitioner. An enquiry was held by one Mullaippan, Director, Motor Vehicles Department, since charges were framed against the Deputy Director and Superintendent of the same Department. The enquiry officer conducted personal hearing and submitted his enquiry report dated 15.04.2004 holding all the charges were proved. The petitioner submitted her objections on 26.05.2004 and without

considering the objections, the first respondent imposed punishment of withholding increment with cumulative effect for three years affecting pension.

2. According to the petitioner, the charges are vague and she is made a scape goat for the irregularities committed by her superiors. She acted as a collecting agent and forwarded the files to her superiors. There are no guidelines or instructions with regard to procedure in maintaining the compassionate ground files. She had forwarded the files as and when received by her. Decision was taken by higher authorities and she has nothing to do with the delayed appointments of the legal heirs of the deceased employees. The opportunity of filing an appeal has also been taken away. Therefore, it is prayed by the petitioner to quash the punishment order passed on vague charges in violation of principles of natural justice.

3. Per contra, Mrs. Janaki, learned Additional Government Pleader would contend that the charges were specific and the names of each

individual and the irregularities committed by the petitioner has been specifically pointed out. The charges were proved on the basis of records and it is not denied by the petitioner. She would allege *mala fides*, for which, not only the petitioner, but also her superior officers were proceeded with disciplinary proceedings and imposed with the punishment of cut in pension since they attained age of superannuation. Hence, it is fault to state that the petitioner was singled out and was made a scape goat. The enquiry was properly held in conformity with principles of natural justice and therefore, she would pray for dismissal of the Writ Petition.

4. I have heard both sides.

5. At the outset, it is seen a charge memo dated 29.01.2001 containing nine charges were served on the petitioner. All the charges were borne out by records and the enquiry officer after giving opportunity, had found that the charges were proved. Enquiry report was also served on the petitioner and she had submitted her objections. The competent authority

namely Secretary has passed punishment order as it involved a Director, Deputy Director and Superintendent.

6.Since the charge involves higher ranking officials, the enquiry shall be conducted by a superior officer of the delinquent. The punishment also shall be passed by the Disciplinary Authority in respect of the delinquent holding high office. In that view of the matter, there is no illegality or deprivation of opportunity of filing of appeal by the petitioner. The over all consideration of the disciplinary proceedings were conducted without delay and in conformity with procedure and principles of natural justice.

7.However, when a charge memo is framed against hierarchy of officers, it is reasonable to conduct a common enquiry for all three officers so that the delinquents will get opportunity to summon and cross-examine the appropriate witness. That opportunity has been denied to the petitioner. In that view of the matter, there is violation of natural justice. However, it is found from the materials that the petitioner has not insisted on a common

enquiry. But the petitioner is an official from lower rung of the hierarchy. She is only a dealing clerk for putting up the files. As stated by her, though proper guide lines were not issued, it is her duty to maintain seniority of the applicants. Hence, she cannot totally disown her responsibilities and blame her superiors. It is found from the status report that punishment has been imposed on those superior officials charged for the same misconduct. However, I do not find any allegations of improper or corrupt motive for illegal enrichment. Even though, there is improper maintenance and up keep records, orders were passed by the superior officials when the superiors having more responsibilities were issued with lesser punishment, imposing the higher punishment on the petitioner is disproportionate to the charges framed against.

8.Considering the facts and circumstances of the case, I am inclined to modify the punishment of withholding increment for three years with cumulative effect into withholding of increments for two years with cumulative effect with its consequences in accordance with law.

The Writ Petition is partly allowed with the above modification. There shall be no order as to costs.

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Index : Yes/No
Internet : Yes/No

ms/asi/TK

To

1.The Special Commissioner
and Secretary to the State of Tamil Nadu
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Fort St.George, Chennai – 600 009.

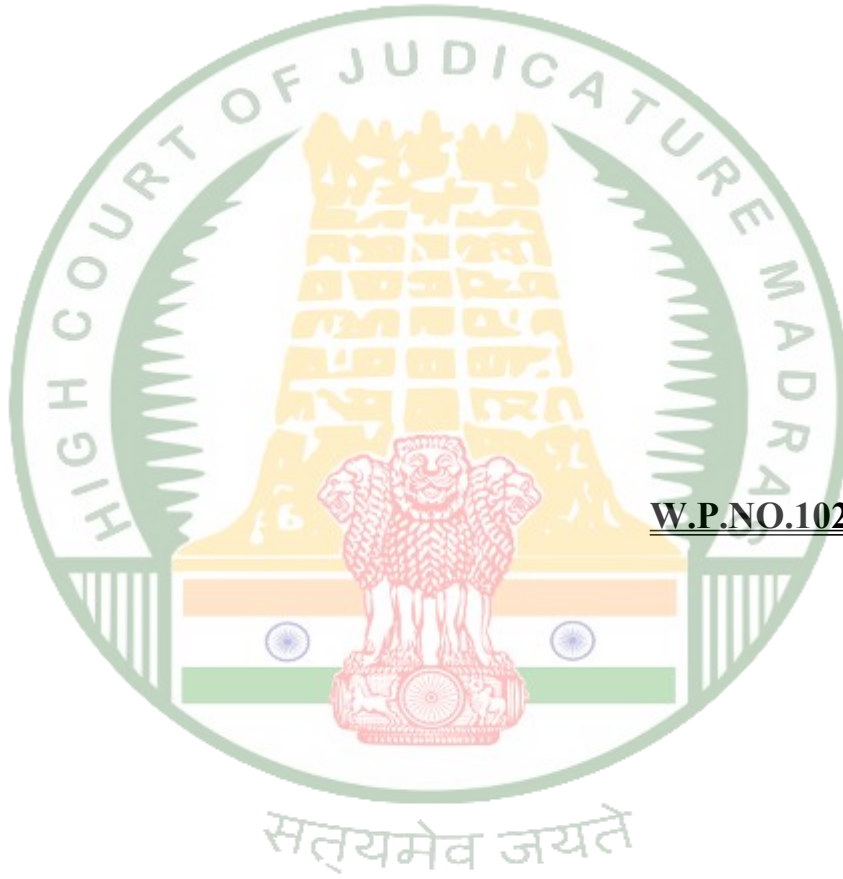
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