

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.21146 of 2013

R.Vijay Kumar

.. Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Rural Development &
Panchayat Raj Department,
Fort St. George, Chennai - 600 009.
 2. The Director of Rural Development,
& Panchayat Raj Department,
Panagal Building, Saidapet,
Chennai - 600 015.
 3. The District Collector,
Cuddalore District.
- .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari calling for the records of the 1st respondent in G.O.(Pa).No.348, Rural Development and Panchayat Raj Department (E6), dated 16.07.2013 and quash the same.

For Petitioner : Mr.K.Raja

For Respondents : Mr.S.Thangavel
Special Government Pleader

O R D E R

The writ petition has been filed challenging the order passed by the first respondent imposing the penalty of censure.

2. The petitioner was working as a Deputy Block Development Officer of Kammapuram Panchayat Union in Cuddalore district. Earlier, a Disciplinary Proceeding has been initiated against the petitioner and charge memo has been issued under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules (hereinafter referred to as 'the Rules'), on 09.06.2010, levelling as many as four charges. The first charge is that, while the petitioner was working as Block Development Officer, Kammapuram Panchayat Union, he

abetted wrong entry to be made in service register in respect of some Makkal Nala Paniyalargal as 20.07.1990, instead of 21.07.1990. The second charge is that, he has opened second service registers in respect of those Makkal Nala Paniyalargal for whom already service registers have been opened. The third charge is that, he has abetted the Makkal Nala Paniyalargal to open new service register without any evidence and the fourth charge is that, the above said misconduct amounts to violating Rule 20(1) of the Tamil Nadu Government Servants Conduct Rules.

3. The above charges were framed on the ground that the third respondent has appointed some Makkal Nala Paniyalargal in the above said Panchayat Union on 20.07.1990. The petitioner without opening the service register of the Makkal Nala Paniyalargal on the date of their joining on 21.07.1990, he made a wrong entry as if they had joined service on 20.07.1990. That apart, when service registers have already been opened for the above said persons, he unnecessarily opened another service register to those persons.

4. After issuing charge memo and obtaining his explanation, Enquiry Officer was appointed and he conducted enquiry after giving appropriate opportunity to the petitioner and has held that all the charges against the petitioner were proved. Thereafter, the report of the Enquiry Officer has been furnished and obtaining his further reply the first respondent Disciplinary Authority has held that charges have been proved and imposed the punishment of censure on the petitioner. Now, challenging the same, the present writ petition has been filed.

5. Mr.K.Raja, the learned counsel appearing for the petitioner would submit that the petitioner was only working as a Deputy Block Development Officer in the above said Panchayat Union and that similar charges have been issued in respect of his higher officials viz., Block Development Officer for the very same occurrence and separate enquiry was conducted by the very same Enquiry Officer and even though the Enquiry Officer has held that the charges were proved, but the Disciplinary Authority has dropped the entire charges against the Block Development Officer on the ground that there is no monetary loss caused to the Government and that the post Makkal Nala Paniyalargal was also abolished on 22.05.2012. The learned counsel has also produced a copy of G.O.(Pa) No.347, Rural Development and Panchayat Raj Department dated 16.07.2013. Thus, according to the learned counsel appearing for the petitioner in respect of the very same charges against similarly placed persons, charges against the higher official has been dropped, whereas the petitioner has been singled out and he has been imposed with punishment of censure.

6. Mr.S.Thangavel, learned Special Government Pleader appearing for the respondents submitted that enquiry has been

conducted properly and sufficient opportunity has been given to the petitioner and based on the materials, the Enquiry Officer has held that the charges were proved. Further taking into consideration that Mr.M.Peter, who was working as Block Development Officer, has retired in the year 2012, the charges against him have been dropped. Hence, petitioner cannot claim any parity now.

7. I have considered the rival submissions.

8. The one and only contention of the petitioner is that, against the Block Development Officer, very same charges have been issued and after the enquiry, the Enquiry Officer held that the charges are proved, but the charges against him was dropped on the ground that, there is no pecuniary loss to the Government and also the above said post was abolished on 22.05.2012. Charges were similar against the petitioner as well as the Block Development Officer and the same Enquiry Officer conducted enquiry and held that the charges against both of them were proved. However, the Disciplinary Authority, dropped the charges in respect of the Block Development Officer on the ground that there is no monetary loss and no legal complication arise out of the wrong entry. But, in respect of the petitioner even though the very same reason is stated in the impugned order, but imposed the punishment of censure. The petitioner was working as Deputy Block Development Officer, the person against whom charges were dropped was working as Block Development Officer and the charges against the petitioner is only abetting the Block Development Officer to make wrong entries. When the person who made the wrong entries viz., Block Development Officer has been exonerated of the charges and the petitioner who only said to have abetted the Block Development officer was singled out and punishment was imposed on him.

9. In the above facts and circumstances, the impugned order violates Articles 14 and 16 of the Constitution of India and hence I am inclined to set aside the impugned order.

10. In the result, writ petition is allowed and the impugned order is set aside. No costs.

Sd/-

Assistant Registrar (AD I MDU)

//True Copy//

Sub Assistant Registrar

2.The Secretary,
Kakkum Karangal (Old Age Home),
212/54, Amman Koil Street,
Parrys, Chennai - 600 001.

To

1. The Secretary to the Government,
Rural Development &
Panchayat Raj Department,
Fort St. George, Chennai - 600 009.
2. The Director of Rural Development,
& Panchayat Raj Department,
Panagal Building, Saidapet,
Chennai - 600 015.
3. The District Collector,
Cuddalore District.

+1cc to Mr.Raja, Advocate, S.R.No. 20976
+1cc to the Government Pleader, S.R.No. 21677

W.P.No.21146 of 2013

MG (CO)
GN(06/08/2020)



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