

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.07.2020

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 7971 OF 2013

M.Sitharthan

.. Petitioner

- Vs -

1. State of Tamil Nadu rep. by
The Secretary to Government
Housing & Urban Development Dept.
Secretariat, Chennai 600 009.

2. The Chairman
Tamil Nadu Slum Clearance Board
Chennai 600 005.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records pertaining to the order passed by the 1st respondent in G.O. Ms. No.25, Housing & Urban Development Department, dated 27.1.12 confirming the order passed by the 2nd respondent in his proceedings No.J1/26102/98 dated 16.7.04 and quash the same and direct the respondents to confer all consequential benefits to the petitioner.

For Petitioner : Mr. P.Ganesan for M/s. C.S.Associates

For Respondents: Mr. S.Prabhu, AGP for R-1
Mr.N.Bose for R-2

ORDER

The petitioner was appointed as Junior Engineer in the 2nd respondent Board through employment exchange on 23.10.1989 and was promoted as Asst. Executive Engineer on 22.2.11. While serving thus, a charge memo was issued on the petitioner charging the petitioner on five counts of which charges 3 and 5 are the major charges and the other charges are incidental to charges 3 and 5. The main charges relate to non-maintenance of vouchers with regard to 19.57 MT cement. The petitioner denied all the charges and, therefore, an enquiry was conducted and the

enquiry officer submitted his report on 4.5.2000 holding the charges proved. The petitioner was provided with the enquiry report and his explanation was called for to which he submitted his additional explanation on 6.6.2000. However, not satisfied with the said explanation, the 2nd respondent imposed punishment of stoppage of increment for three years with cumulative effect and for recovery of loss to the tune of Rs.47,114/- to be deducted in instalments from the salary of the petitioner, vide order dated 16.7.04. Against the said order, the petitioner preferred appeal to the 1st respondent, which was rejected vide order dated 27.1.12 and aggrieved by the said rejection, the present petition has been filed.

2. Learned counsel appearing for the petitioner submits that though the petitioner denied all the charges and specifically denied all the charges levelled against him. It is the further submission of the learned counsel for the petitioner that the petitioner has explained for charge No.3 that he has not only entered the details of the 19.575 MT cement in the books of account, but has also sent the account books along with the bills on 5.10.98 to his superiors. Further, the learned counsel also submitted that the petitioner, vide his letter dated 28.10.98 has also sent a letter to the Executive Engineer as to whom the cement has to be handed over and was expecting the reply. It is the submission of the learned counsel for the petitioner that the explanation offered by the petitioner have not been considered in proper perspective by the respondent and the order in pursuance of the said enquiry report is wholly unsustainable. It is the further submission of the learned counsel for the petitioner that the enquiry report does not disclose the basis of the materials on which the enquiry officer has predicated his findings. Therefore, for all the lacunae above, the learned counsel for the petitioner prays for allowing the present petition.

3. Per contra, learned counsel for the respondents submits that the petitioner has not placed any letter dated 28.10.98 alleged to have been written to the 2nd respondent and simply saying that he has addressed a letter to the 2nd respondent would not suffice to hold that the petitioner is not guilty of the offence. It is the further submission of the learned counsel for the respondents that the petitioner cannot simply shift the burden on one Kuppusamy, for not properly maintaining the accounts and the petitioner cannot take shelter under the act of one Kuppusamy to absolve himself of his culpability.

4. This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials

available on record.

5. The facts in issue are not in dispute. The petitioner has taken umbrage under the explanation offered that he has written a letter to the Executive Engineer on 28.10.98 seeking certain instructions. Also the petitioner has stated in his explanation that on 5.10.98 he has sent the account books along with the bills with regard to 19.575 MT of cement. Though such a stand is taken by the petitioner in the explanation, however, no documents to substantiate the same has been placed either before the enquiring authority or before this Court to show that the petitioner has acted within the four corners of his duties and discharged his duties diligently. Further, the stand of the petitioner that the books of accounts have not been properly maintained by one Kuppusamy, is nothing but the last straw, which the petitioner is holding to absolve himself of the charges. The said stand of the petitioner is also not substantiated by any materials and mere averment without any documentary materials cannot be put in favour of the petitioner to grant the relief as sought for.

6. The enquiry officer has taken into consideration not only the conduct of the petitioner but also the materials placed before him and the absence of any materials to substantiate his side of the case by the petitioner and has rightly arrived at the decision holding the petitioner guilty of the charges and the disciplinary authority has rightly imposed the punishment, which has been confirmed in appeal and in the absence of any substantiating material placed by the petitioner before this Court, this Court is of the considered view that no interference is warranted with the findings and the punishment imposed on the petitioner and, therefore, this petition is liable to be dismissed.

7. For the reasons aforesaid, the petition, being devoid of merits, is accordingly dismissed. However, in the circumstances of the case, there shall be no order as to costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assitant Registrar

GLN

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To

1. The Secretary to Government
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Government of Tamil Nadu
Secretariat, Chennai 600 009.

2. The Chairman
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