

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.11.2020

Coram

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.23815 of 2014

J.Gnanasekaran

..Petitioner

-vs -

1. The Registrar of Co-operative Societies,
Thattanchavadi,
Puducherry.

2. The Managing Director,
The Pondicherry Co-operative
Spinning Mills Limited,
Thiruvandarkoil Post,
Thirubhuvanai,
Puducherry - 605 009.

..Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order passed by the 1st respondent in R.P. No.7 of 2014, dated 24.07.2014 in so far as it denies backwages and other monetary benefits to the petitioner in para 42 and quash the same and consequently direct the respondents to pay the full salary and other monetary benefits for the period from the date of suspension to the date of reinstatement.

For Petitioner : Mr.D.Prem Naraynan

For Respondents : Mr.D.Ravichandar,
Additional Government Pleader
for R1
Mr.R.Sreedhar for R2

ORDER

(This case has been heard through video conference)

It is the case of the petitioner that he entered into service as Topper in the second respondent spinning mills and was placed under suspension on 26.03.2013 and a charge memo was issued. Further to the initiation of departmental action, explanation was called for from the petitioner for which the petitioner submitted his explanation and being not satisfied with the explanation offered, enquiry was proceeded with and after enquiry, the enquiry officer submitted his report holding

the charge proved against the petitioner. It is the further averment of the petitioner that on the basis of the enquiry report holding the charges proved, the second respondent imposed punishment of termination from service to the petitioner vide Proceedings dated 19.08.2013.

2. Against the said order of punishment, he preferred an appeal before the first respondent on 26.08.2013, who modified the punishment to one of reinstatement, however without monetary benefit for the above period. In view of the non-payment of monetary benefits due to the petitioner the present writ petition has been filed.

3. Learned counsel appearing for the petitioner, while reiterated the grounds raised by the petitioner in the affidavit filed in support of the petition, vehemently states that the petitioner submitted explanation before the second respondent, which was not considered and the petitioner was terminated from service and the appeal filed resulted in reinstatement of the petitioner, however without monetary benefits, which is wholly impermissible and unsustainable. It is therefore submitted that the impugned order deserves to be modified directing the respondents to pay the monetary benefits.

4. Per contra, Mr.D.Ravichandran, learned Additional Government Pleader appearing for the first respondent submits that the enquiry was conducted in a fair and proper manner and the disciplinary authority though awarded a higher punishment, the appellate authority, taking a lenient view, has modified the punishment, which clearly reveals proper application of mind to the materials and, therefore, no interference is warranted with the well considered order passed by the respondents. It is further submitted by the learned Additional Government Pleader that the Courts shall not interfere with the punishment imposed unless the punishment inflicted is disproportionate and shocking the conscience of the court. Therefore, it is submitted that no interference is called for with the order passed by the respondents.

5. This Court bestowed its best attention to contentions advanced by the learned counsel on either side and perused the materials available on record.

6. Before proceeding to analyse the facts of the present case to find out whether the punishment awarded to the petitioner is just and reasonable, the ratio laid down with regard to matters in which punishment has been imposed, which is impugned under Article 226 of the Constitution.

7. It has been the consistent view of the Courts that it is always within the domain of the appointing authority to decide on the punishment to be imposed on the delinquent, which should be proportionate to the act of the delinquent. Only when the punishment is disproportionate and shocking to the conscience, should the courts interfere in the same in exercise of powers under Art. 226 of the Constitution. In Prem Nath Bali - Vs - High Court of Delhi (2015 (16) SCC 415), the Hon'ble Supreme Court held as under :-

"20. It is a settled principle of law that once the charges levelled against the delinquent employee are proved then it is for the appointing authority to decide as to what punishment should be imposed on the delinquent employee as per the Rules. The appointing authority, keeping in view the nature and gravity of the charges, findings of the inquiry officer, entire service record of the delinquent employee and all relevant factors relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rules.

21. Once such discretion is exercised by the appointing authority in inflicting the punishment (whether minor or major) then the courts are slow to interfere in the quantum of punishment and only in rare and appropriate case substitutes the punishment. Such power is exercised when the court finds that the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges thereby shocking the conscience of the court or when it is found to be in contravention of the Rules. The Court may, in such cases, remit the case to the appointing authority for imposing any other punishment as against what was originally awarded to the delinquent employee by the appointing authority as per the Rules or may substitute the punishment by itself instead of remitting to the appointing authority."

(Emphasis Supplied)

8. The materials available on record reveal that the enquiry has been conducted in accordance with law as per the procedure contemplated under the relevant rules. Though the petitioner has been reinstated by the orders of the appellate authority, however, a careful perusal of the order passed by the appellate authority reveals that it is not a direction of reinstatement simpliciter, but it is only an order of reinstatement with certain riders. In fact the appellate authority has held that the punishment imposed is

disproportionate which requires modification, but the petitioner has not been absolved wholly of the charges and, therefore it was held that the petitioner would not be entitled to monetary benefits. On an overall appreciation of the case, it can be safely concluded that the punishment imposed on the petitioner, in no way could be termed to be disproportionate and further it cannot also not be said that it shocks the conscience of this Court. The task entrusted on this Court is only to find out whether the appellate authority has applied their mind to the materials before passing the order of punishment.

9. This Court, on a perusal of the materials placed is of the firm opinion that the punishment imposed on the petitioner could in no way be said to be disproportionate and shocking to the conscience of this Court. The punishment, in the considered view of this Court is just and reasonable and, this Court is of the opinion that no interference is warranted with the impugned order passed by the respondents.

10. For the reasons aforesaid, this writ petition is devoid of merits and, accordingly, the same is dismissed. However, there shall be no order as to costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vsi2

To

1. The Registrar of Co-operative Societies,
Thattanchavadi,
Puducherry.

2. The Managing Director,
The Pondicherry Co-operative
Spinning Mills Limited,
Thiruvandarkoil Post,
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+1 CC to Mr.R.Prem Naraynan, advocate sr 35293.
+1 CC to The Government Pleader sr 35379.

W.P. No.23815 of 2014

UM(CO)
SP(10/12/2020)