



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2020

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.16083 of 2014

and M.P. (MD)No.1 of 2014

WEB COPY

C.Karuppaian

... Petitioner

Vs.

1.The Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai - 600 009.

2.The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.

3.The Dean,
Thanjavur Medical College Hospital,
Thanjavur, Thanjavur District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the second respondent in Se.Mu.Aa.No.41164/SiMaPi2(2)/2011 dated 04.10.2011 and the consequential impugned order passed by the first respondent in G.O.(D)No.956, Health and Family Welfare (I-2) Department, dated 03.09.2013, quash the same.

For Petitioner : Mr.L.Shaji Chellan

For Respondents : Mr.P.Mahendran,
Additional Government Pleader.

ORDER

The order of punishment passed by the second respondent in proceedings dated 04.10.2011 and the consequential appellate order passed by the first respondent in G.O.No.956 Health and Family Welfare Department, dated 03.09.2013 are sought to be quashed in the present writ petition.

2.The petitioner was working as an Assistant in the Department of Medical Education, more specifically, the Thanjavur Medical College Hospital. A complaint was registered against him in crime No.56 of 2009 on the file of the Thanjavur West Police Station for the alleged commission of offence under Sections 294(B), 353 and 506(ii) of IPC. The allegation against the writ petitioner was that he threatened the Administrative Officer with aruval and reserved with the co-employees.



3.The petitioner was suspended from service and charge memo under Rule 17(B) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules was issued. The criminal case ended with an order of acquittal on the ground of benefit of doubt and in view of the fact that the defacto complainant turned hostile. Even before the enquiry proceedings, the witnesses have not deposed properly and the Enquiry Officer has held that the charges are not proved. However, the writ petitioner was handed over by the Office employees to the Police on the particular day of occurrence and criminal case was also registered against him immediately in crime No.56 of 2009. The alleged incident took place in the Government Office and many other Office employees were present. They got the petitioner and handed over to the Police along with aruval and this fact was recorded and therefore, the Disciplinary Authority has taken a decision to deviate the findings of the Enquiry Officer and accordingly, issued the show cause notice in proceedings dated 26.06.2011. The reasons for disagreement on the findings of the Enquiry Officer are that "as per available records Thiru.C.Karuppaian, Assistant, on 21.01.2009 having weapons, namely, aruval and knife in his hand and threatened Thiru.Paramanandham, Junior Administrative Officer (retired) and for which he was handed over to the Police. Hence, charges framed against him has proved."

4.This Court is of the considered opinion that mere acquittal in a criminal case would not be a ground to seek exoneration from the Departmental Disciplinary Proceedings. To convict a person under the criminal law, strict standard of proof is required. However, no strict proof is required to punish an employee under the Disciplinary and Appeal Rules. Preponderance of probabilities are enough to punish an employee under the Disciplinary and Appeal Rules. Thus, standard of proof required for a criminal case need not be the factum for the purpose of imposing punishment in the Departmental Disciplinary Proceedings.

5.In the present case, the witnesses turned hostile and probably the colleagues of the writ petitioner would have taken a decision not to spoil his official cadre or in order to save the family of the writ petitioner. Even, the competent criminal Court in its judgment has recorded that the accused/writ petitioner was having twenty more years of service in the Department. Thus, there was a possibility of compromise between the parties and based on the compromise, the witnesses turned hostile and accordingly, the petitioner was acquitted. However, the incident happened in the Government Office and the fact remains that the criminal case was registered against the petitioner and he was handed over to the Police along with weapons namely, aruval and knife. When this fact was recorded by the Joint Director of Medical Education, there is no reason to disbelieve the situation



for the purpose of disagreeing with the findings of the Enquiry Officer.

6. In the event of total exoneration from the Disciplinary Proceedings, the Disciplinary Authority would have thought that the same would send a wrong message to the other employees working in Government Offices and it would be very difficult for the Authorities to control the Administration. Thus, based on the preponderance of probabilities and with reference to the factum of registering the criminal case against the writ petitioner and also based on the fact that the petitioner was handed over to the Police on the particular day of occurrence along with weapons, namely, aruval and knife, the competent Authority took a decision of disagreeing with the findings of the Enquiry Officer and this Court do not find any perversity in respect of such disagreement of the Disciplinary Authority.

7. Circumstantial evidences are also the factors for the purpose of imposing punishment. In the present case, various circumstances and the scene of occurrence which were witnessed and occurred on the particular day was taken into consideration by the Authority concerned. In fact, this exactly practical and pragmatic approach to be adopted in order to take the efficient Administration. In normal circumstances, the Authorities were used to exonerate the employees. However, the Joint Director of Medical Education in the present case, has taken a pragmatic approach with reference to the incident happened inside of the Government Office premises and therefore, the disagreement is in consonance with the spirit of Disciplinary and Appeal Rules and this Court do not find any perversity or otherwise.

8. This apart, the initial punishment imposed i.e., stoppage of increment for two years with cumulative effect was modified by the Appellate Authority as stoppage of increment for one year with cumulative effect. Thus, the Appellate Authority has shown a concession to the writ petitioner and further concession cannot be extended by this Court in the present writ petition. Accordingly, this writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

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Sub Assistant Registrar (CS)



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+1 CC to SGP (SR-23920[F] dated 03/12/2020)

+1 CC to Mr.L.SHAJI CHELLAN, Advocate (SR-24075[F] dated
04/12/2020)

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