



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 19.08.2020

DELIVERED ON : 08.09.2020

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

WP(MD).No.19968 of 2014
and
M.P(MD).No. 2 of 2014

Dr. G. Subbaiah : Petitioner

Vs.

- 1.The Secretary,
Animal Husbandry, Dairying and
Fisheries Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Secretary,
Tamil Nadu Public Service Commission,
Greens Road, Chennai - 3.
- 3.The Director,
Animal Husbandry and Veterinary Services,
Central Officer Building Part - II
Teynampet,
Chennai - 625 006.
- 4.The Deputy Director of Animal Husbandry,
Kumarasamyraja Nagar,
Collectorate,
Virudhunagar - 625 002.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 3rd respondent's impugned order in Na.Ka.no.45499/L2/11-2 dated 12.05.2012 as confirmed by the first respondent in G.O(D).No.127, Animal Husbandry, Dairy (Ma) Fisheries (KaPal) Department, dated 30.04.2014 and quash the same.

For petitioner	: Mr. M. Kannan
For R1, R3 and R4	: Mr. Shanmugaselvam Additional Government Pleader
For R2	: Mr. K.K. Senthil Standing Counsel



ORDER

This Writ Petition has been filed to quash the impugned order of the the 3rd respondent dated 12.05.2012 made in Na.Ka.No.45499/L2/11-2 as confirmed by the first respondent in G.O (D).No.127, Animal Husbandry, Dairy (Ma) Fisheries (KaPal) Department, dated 30.04.2014.

2. The factual service matrix of the petitioner that are required for this case as follows:

The petitioner herein was working as an Assistant Director in the office of the fourth respondent and that he was directed to attend the pre-review meeting conducted by the third respondent at Chennai on 30.06.2011, as a preliminary meeting for the State Level Review meeting stated to be held on 04.07.2011 and that after attending the meeting, the petitioner herein returned back to the Headquarters and sent leave application by telegram without either annexing the medical certificate obtained from the competent authority, nor informing the details about the pre-review meeting attended by him or the details to be taken for the review meeting scheduled on 04.07.2011. Since the petitioner failed to attend the review meeting on 04.07.2011, charges under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, were framed and he was directed to offer his explanation for the same. Challenging the same, the petitioner has filed the present Writ Petition.

3. The learned counsel appearing for the petitioner submitted that in the capacity of third respondent, the petitioner has attended the pre-review Meeting held on 30.06.2011 for the review meeting to be held on 04.07.2011. Due to the low back pain, he could not attend the review meeting held on 04.07.2011 and therefore, the 4th respondent initiated action against him for non communication of the non attendance of the review meeting held on 04.07.2011 to the third respondent. He further submitted that though the leave has been regularised in pursuant to the Medical Board report, the impugned proceeding has been initiated for non attending the meeting scheduled on 04.07.2011.

4. The learned Additional Government Pleader appearing for the respondents 1, 3 and 4 would contend that during the pendency of the Writ Petition, the petitioner has not pressed the prayer before the Department and he underwent punishment and subsequently got promotion and retired from service.

5. In reply, the learned counsel appearing for the petitioner submitted that the petitioner has not underwent the punishment and he has not admitted the punishment as a regular course of promotion. Since the petitioner's leave has been regularised, he is entitled to more benefits.

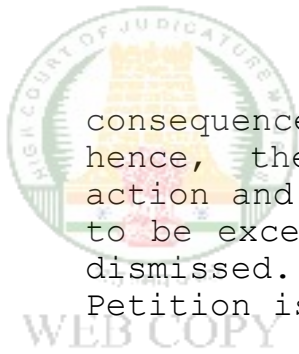


6. I have heard the learned counsel appearing on either side and perused the materials available on record.

7. Considering the rival submissions and also taking note of the fact that the absence of the petitioner for non attending the duty, his service was regularized. However, the appeal preferred by the petitioner was dismissed. It is to be stated that the charge under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, was initiated only for not attending the review meeting held on 04.07.2011. As the petitioner is a middle level Executive Officer of the Department entrusted with an important task of attending the State Level Review Meeting conducted by the Head of the Department, it is the duty of the Subordinate Officer to inform his inability to attend the meeting. In fact, as per the version of the petitioner herein on returning back to Head Quarters after attending the pre-review meeting, he was suffered with back pain and for that purpose, he went to hospital for getting treatment.

8. Admittedly, if the petitioner is not able to attend the meeting as advised by the Doctor he could have very well contacted his immediate boss or reporting officer viz., 4th respondent herein and conveyed about bad health or his inability to attend meeting to be held scheduled on 04.07.2011 and he could have informed the fourth respondent atleast that a substitute have been placed in his place to attend the State Level Conference in respect of the implementation of Policy and for sanctioning of the amount. It is not in dispute that the petitioner is a middle level Executive Officer and he is entrusted to attend the State Level Review Meeting. It is no doubt true that for the days absent, the above said days have been regularized as leave available to his credit. However, in the absence of positive reason for not attending the meeting scheduled on 04.07.2011 he could have informed about his ill health condition to the fourth respondent in person or over phone and his inability to attend the meeting as well as briefing him about the instruction conveyed in the pre-review meeting so as to enable him to depute some other officer to attend the State Level Review Meeting which would have avoid the embarrassment as well as the funds received by the District and howsoever, the minor dereliction, be it, he being as a responsible Government official, the petitioner herein ought to have taken sufficient action to ensure attendance by the other officials in the review meeting on 04.07.2011 and his statement as advised by the Director to take rest does not take away the dereliction and hence, the punishment of stoppage of increment of six months without cumulative effect commensurate with the delinquency and

9. Hence, I find that there is no justification in condoning the act of the petitioner. Merely, because on the ground that ill health, but, the conduct of non cooperation of the petitioner in not conveying his medical grounds to the reporting officer, as a



consequence none had represented in the State level Meeting and hence, the respondent has correctly initiated the disciplinary action and awarded the quantum of punishment, which does not appears to be excess and in this view of the matter, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Trp

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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ORDER MADE IN
WP(MD).No.19968 of 2014
08.09.2020

VB (16.09.2020) 4P 5C