



WEB COPY

IN THE HIGH COURT JUDICATURE AT MADRAS

DATED : 20.10.2021

CORAM

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.P.NO.21314 OF 2007

AND

M.P.NO.1 OF 2007

K.Ramamoorthy

... Petitioner

.Vs.

1. The Pondicherry Engineering College,  
Rep. by its Principal,  
Pondicherry Engineering College,  
Pillaichavadi, Puducherry.

2. The Chairman,  
Pondicherry Engineering College,  
Pillaichavadi, Puducherry.

... Respondents

PRAYER:-

Writ petition is filed under Article 226 of the Constitution of India prayed to issue a WRIT OF CERTIORARI to call for the records of the respondents with No.PEC/Estt./E4/Enquiry/2006/No.1024 dated Nil and No.11738/Mr.C.S./2006 dated 3.01.2007 and to quash the same.

For Petitioner : Mr.V.Ajayakumar

For Respondents : Ms.G.Sudha  
For Ms.N.Mala  
Government Pleader (Pondicherry)

O R D E R

The petitioner was working as Senior Accounts Officer in the Pondicherry Engineering College. He joined the service of the Respondent College as Senior Accounts Officer on 01.10.1997. The petitioner was in charge of the drawing and disbursing Officer of the Respondent College.



2. According to the petitioner, he was pointing out several illegality and irregularity in the case of expenditure incurred by several authorities of the respondent college, as a result of which, he was subjected to grudge and in feeling of several of the higher authorities.

3. It is submitted by the petitioner that on 04.12.2003, he was issued with a charge memo which contained 8 charges and also a list of documents by which the charges are proposed to be sustained. The first charge levelled against the petitioner was that while he was functioning as Senior Accounts Officer, he issued salary certificates to many employees to avail loans from banks and other financial institutions without showing recoveries discarding instructions, which attracts disciplinary action under Rule 14 of CCS(CCA Rules) 1965 and clause 9 of By-Laws of the College.

4. The second charge levelled was that he issued salary certificates to 81 employees which were used by them for taking loans and the banks have issued reminders of non-recovery of loans since the petitioner while issuing salary certificates to those 81 employees deliberately overlooked regular monthly recoveries on pick and choose basis and the dues to be recovered from those employees were many times more than to their net salary drawn. Apart from the above two charges, third charge is that he tried to influence one Dr.A,Muthuramalingam and in respect of AICTE project orders placed with him by offering bribe. The 4<sup>th</sup> charge is that he delayed the processing of work bills and supplier's bills with a motive to receive illegal gratification. Fifth charge is that he willfully delayed action to issue the DD and did not bother to inform the reasons for the delay in preparing the DD to the Principal. The same amounts to insubordination and willful dereliction of duty. Sixth, Seventh charge are relating to his representation requesting for revising pay scale and that he resorted to pressure tactics. 8<sup>th</sup> charge is that he deliberately failed in his duties to produce all relevant records and convince the commercial auditors to drop certain observations in the Audit Report for the years 2001-02 and 2002-03.

5. It is the contention of the learned counsel for the petitioner that a reading of the first two charges show that both are one and the same and that it is an act of disobedience and in-subordination. But the first charge was not proved. Similarly, in respect of the second charge, the respondents did not prove that there is a breach of trust. Further, the petitioner counsel stated that the college has not taken any action against any employee who prepared the salary certificates by concealing the true facts.



6. The learned counsel for the petitioner further submitted that the third charge is only a complaint of Dr.A.Muthuramalingam that a third party promised to present a personal computer to him. For the act of the third party, the petitioner cannot be punished. It is further submitted that he filed the written statements of defense to the charge memo within the prescribed period of ten days and requested the authorities to drop the same. An enquiry was conducted. The enquiry officer came to the conclusion that out of the 8 charges, Charge No.1 is declared as proved and charge No.2 is partially proved and all other charge are declared as not proved. An order was issued imposing punishment of (1) Reducing basic pay from Rs.9,250/- to Rs.9,000/- in the pay scale of Rs.7500-250-12000 for a period of one year and that he will not earn increment and the punishment will have the effect of postponing the future increments. (2) The period of suspension from 05.02.2004 to 23.06.2005 is treated as not on duty and it will not be eligible for increments and that he is not eligible for full pay and allowance during the period of suspension.

7. Aggrieved by the above punishment, the petitioner filed an appeal before the Appellate Authority and the said appeal was rejected and the punishment imposed by the disciplinary authority was sustained. It is against the said order of punishment and the order passed by the appellate authority, the present Writ Petition is filed.

8. The learned counsel for the petitioner contends that the charge memo dated 4.12.2003 is not legally sustainable and so the enquiry report, the punishment and the order passed by the Appellate authority are liable to be quashed. The authorities have not produced any orders issued by the higher authorities preventing the issue of salary certificate without which the question of misconduct and insubordination does not arise. All the charges are vague and did not give any details regarding the misconduct and so the charges are not legally sustainable.

9. The enquiry officer did not consider the evidence produced by the petitioner and the relevant factor, if properly considered, the first and second charges also would have been declared as not proved.

10. Out of 8 charges, only one charge is declared as proved and another charge is declared as partially proved and so the disciplinary authority ought not to have imposed the severe punishment as stated in the Impugned Order. It is submitted that the punishment imposed upon the petitioner is disproportionate with the charges levelled and which are declared as proved. On that ground itself, the enquiry report as well as the Impugned Orders are liable to be quashed.



11. The learned Government Advocate (Puducherry) appeared for the respondent and submitted that the disciplinary authority, agreeing with the findings of the inquiring authority, has passed order imposing penalty of reducing pay and increment cut. It is submitted that the inquiring Authority, after going into entire oral and documentary evidence and the defence put forth by the charged officer, has rightly rejected the defence and held that the charge has been clearly established. The learned Government Advocate further submitted that the findings of the disciplinary authority is that the action on the part of the charged officer has certainly become a source to spoil the reputation of the college among the Banks/Societies/Financial Institutions.

12. Heard both sides and perused the records carefully.

13. It is the case of the petitioner that while he was in charge of the drawing and disbursing Officer of the Respondent College, he was issued with a charge memo dated 04.12.2003 containing 8 charges, which attracts disciplinary action under Rule 14 of CCS(CCA Rules) 1965 and clause 9 of By-Laws of the College. Out of 8 charges, only one charge is declared as proved and another charge is declared as partially proved and so the disciplinary authority ought not to have imposed the severe punishment as stated in the Impugned Order. It is the further case of the petitioner that the punishment imposed upon the petitioner is disproportionate with the charges levelled against him and therefore, the enquiry report as well as the Impugned Orders are liable to be quashed.

14. On a perusal of entire materials available on record, it is seen that the disciplinary proceedings had been conducted in conformity with the rules and bye-laws of the respondent College. The inquiring authority given the findings based on evidence let in by the prosecution witnesses and found that charges 3 to 8 are not proved, considering the explanation given by the petitioner. The inquiring authority given the finding that the charged officer has issued pay certificates violating the instructions contained in Ex.P.3 without maintaining one-third take home salary during the immediately succeeding months. The authority found that the charged officer without showing the outside recovery or without the following minimum take home salary norm, issued pay certificates, without following the instructions. It is further found that the action of the charged officer has certainly become a source to spoil the reputation of the College among Banks and financial institutions but not rendering him untrustworthy or guilty of breach of trust. A careful perusal of the charges levelled against the petitioner, the enquiry proceedings and the order of the inquiring authority, would make it clear that there is no irregularity or



illegality in the inquiry proceedings. The petitioner was given reasonable opportunity to put forth his case and his explanation was properly considered and on a finding that charges 3 to 8 not proved but only charges 1 and 2 proved, imposed the punishment. Though it is contended by the petitioner counsel that the punishment imposed is disproportionate to the charges proved, the matter of issuing false salary certificate to the employees to take loans from Banks and Financial Institutions cannot be viewed as a minor allegation. Such act of the petitioner affected the reputation of the respondent college and it caused inconvenience to the institution and for the Banks for recovery of the loan amounts. Therefore, considering the serious nature of the charge that it is grave in nature and on a clear finding that charges 1 and 2 are proved, as per the rules of the respondent institution, the punishment is imposed. Finding no violation of principles of natural justice and irregularity in passing the impugned order, this court is of the considered view that there is no merit in the writ petition and the writ petition is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

nvsri

To

1. The Principal,  
Pondicherry Engineering College,  
Pillaichavadi, Puducherry.
2. The Chairman,  
Pondicherry Engineering College,  
Pillaichavadi, Puducherry.

+1cc to Ms.N.Mala, Advocate, S.R.No.53772

W.P.NO.21314 OF 2007

SPD(CO)  
PBS/22/12/2021