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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

WRIT PETITION NO.34578 OF 2007

C.Saravanasamy

..Petitioner

Vs

1. The Chief Secretary,
Fort.ST.George, Chennai-9,
(High Level Standing Committee for Governement Servants).

2. The Principal Secretary to Government,
Home Department,
Fort ST.george, Chennai-9.

3. Addl.Director General of Prisons,
Egmore, Chennai-600 008.

..Respondents

Prayer :

Writ Petition filed praying to issue a writ of Certiorarified Mandamus to call for the records relating to the order passed by the 2nd respondent in G.O.Ms.No.130, Home (Prison II) Department, dated 16.02.2005 and confirmed by the order passed by the 1st respondent in G.O.Ms.No.1201 Home (Prison II) Department, dated 15.12.2006 and quash the same and direct the respondents to reinstate him with all attendant benefits.

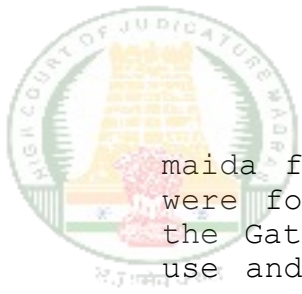
For Petitioner : Mr.A.M.Packianathan Easter

For Respondents : Mr.K.Magesh,

Spl.Govt.Pleader for R1 to R3.

ORDER

The Petitioner joined duty as Junior Assistant on 24.12.1977 in the Central Prison, Trichy. While he was serving as Assistant, Central Prison, Trichy, a charge was framed against him. The charge was that on 18.01.1999, he tried to bring 1 kg



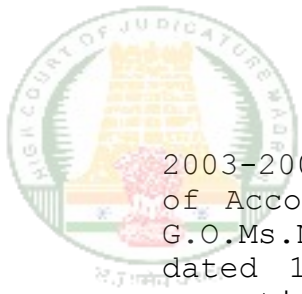
maida flour and 3 bottles of water inside the prison and that were found by the Gate Keeper in the bag of the petitioner at the Gate. According to the petitioner, it was kept for his own use and the same is not a contraband as per Rules. An enquiry was conducted and on 05.06.2000, punishment of reduction of basic pay for 2 stages for a period of 2 years without cumulative effect was awarded.

2. Thereafter, on 23.07.2004, the 3rd respondent duly promoted the petitioner as Accountant from the panel. While the petitioner was working as Accountant in the Central Prison, Madurai, on 19.02.2005, the 2nd respondent issued G.O.Ms.No.130, Home (Prison II) Department holding that his case was ripe for review under Fundamental Rules 56(2) for the half year ended 30.06.2000 and was placed before the Review Committee. The Review Committee, after considering the record sheet of the said officer and other relevant records and also taking into consideration of all aspects of the matter, resolved not to recommend the petitioner for continuance in service beyond 50 years of age and further resolved that is just and necessary in public interest, to compulsorily retire the said official, from service under Fundamental Rules 56(2).

3. The petitioner filed review petition to the High Level Standing Committee raising grounds that for the lapse he committed he was already punished and from 2002, his records were clean and he was considered for promotion from the cadre of Assistant to Accountant and that the allegations were of minor nature and the punishment is disproportionate.

4. The review petition was rejected on 15.12.2006 by the 1st respondent and the petitioner was asked to submit his pension papers. Against the said orders, the petitioner filed this writ petition raising the ground that the impugned orders are against the settled principles of law and the 1st respondent failed to consider his clean records from 2000 to 2005 and that he had been selected and promoted by the 3rd respondent as Accountant on 23.07.2004.

5. Respondents filed counter affidavit and submitted that since the petitioner was facing a charge under rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and awarded with the punishment of reduction of pay by two stages for two years without cumulative effect dated 05.06.2000, his name was not recommended for inclusion in the panel for the post of Accountant for the year 2000-2001, 2001-2002, 2002-2003 and

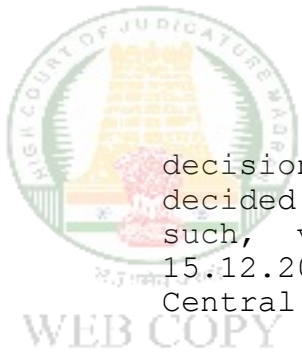


2003-2004. But his name was considered for promotion to the post of Accountant for year 2004-05 as per the guidelines issued in G.O.Ms.No.368, Personnel and Administrative Reforms Department dated 18.10.1993 and his name was included in the panel for promotion and he was promoted as Accountant and posted to Central Prison, Madurai vide proceedings No.2644/CSI/2004 dated 23.07.2004 of the third respondent.

6. It is further submitted that the petitioner had earned 26 punishments throughout his service till the year 2000 at the time when his case was taken up for review for compulsory retirement under the Fundamental Rule 56(2) for the half year ended 30.06.2000 as his date of birth i.e. 12.03.1950 falls within the review period. It is further stated that the petitioner was awarded the punishment of Censure on 13.04.2002. So his contention that his service records remain without any punishment subsequent to 30.06.2000 is not correct.

7. It is submitted that he had minor punishments in several cases, the number of punishments are more i.e., 26 punishments till 30.06.2000. Hence, his case was recommended for compulsory retirement under the Fundamental Rule 56(2) for the half year ended 30.06.2000. It is submitted that the petitioner had earned two major punishments (reduction of pay) and also he had heavy load of punishments till 30.06.2000 and he did not mend himself to improve work and the Review Committee considered that his further continuance would be liability to Government and therefore, the Review Committee recommended for his compulsory retirement under the Fundamental Rules 56(2). His service records till 2000 were not satisfactory and he had 26 punishments till 6/2000 and only based on his service records, his case was considered for compulsory retirement by the Review Committee.

8. It is also submitted by the respondents that as per the guidelines issued in G.O.Ms.No.16 Personnel and Administrative Reforms Department, dated 27.01.2000, Government is the competent authority to pass final orders on the recommendation of the Review Committee for compulsory retirement of persons belonging to C and D Group. Further as per the rules and G.O., issued for his compulsory retirement, he was paid a sum of Rs.35,502/- being the three months pay and allowances in lieu of 3 months notice. Further, based on his service records, the Review Committee on 21.05.2002, has considered him unfit to continue in Government service and has compulsorily retired him from service. The subsequent consideration for promotion on 23.07.2004 does not prevent the review committee's original



decision to compulsorily retire him from service and hence decided to reject the review petition as devoid of merits. As such, vide G.O.Ms.No.1201 Home (Prison.II) Department dated 15.12.2006 was served on the petitioner by the Superintendent, Central Prison, Madurai on 28.11.2006.

9. Heard both sides and perused the records.

10. On a perusal of the affidavit and counter affidavit, it is seen that a charge was framed against the petitioner while he was working as Assistant in Central Prison, Trichy and after enquiry, punishment of reduction of basic pay for 2 stages for a period of 2 years without cumulative effect was imposed on 05.06.2000. Subsequently, on 23.07.2004, he was promoted as Accountant and was working in the Central Prison, Madurai. On 16.02.2005, the 2nd respondent issued G.O.Ms.No.130, Home (Prison II) Department, stating that the case of the petitioner was taken for review and the Review Committee after considering the record sheet of the petitioner and other relevant records, resolved not to recommend the petitioner for continuance in service beyond 50 years of age and further resolved that it is just and necessary, to compulsorily retire the petitioner from service under Fundamental Rule 56(2). Further, it is stated that the petitioner is compulsorily retired from service in public interest from the date of issue of orders and three months pay and allowance be paid to him in lieu of three months notice. The petitioner filed review petition to the High Level Standing Committee. The High Level Standing Committee after examining the review petition with connected records has observed that the petitioner has earned 26 punishments till the year 2000. Based on the records, the Review Committee on 21.05.20002 has considered the petitioner unfit to continue in Government Service.

11. A careful reading of the above Government Orders would make it clear that there is no infringement of Fundamental Rules or violation of principles of natural justice. The G.O., has been passed after elaborately considering the record sheet of the petitioner and other relevant records. The Review Petition was also examined in detail and the 1st respondent passed the impugned order holding that the petitioner's subsequent consideration for promotion does not negate the reason for the original decision to compulsorily retire him from service. The service records of the petitioner would go to show that he was imposed with 26 punishments and he had shown no improvement in his work. So, after considering all the aspects, the impugned order has been passed and this court, does not find any reason



to interfere with the same. The Writ petition has no merits. Therefore, the writ petition is dismissed. No costs.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nvsri

To

1. The Chief Secretary,
Fort.ST.George, Chennai-9,
(High Level Standing Committee for Governement Servants).
2. The Principal Secretary to Government,
Home Department,
Fort ST.george, Chennai-9.
3. Addl.Director General of Prisons,
Egmore, Chennai-600 008.

+lcc to Mr.A.M.Packianathan Easter, Advocate, S.R.No.50612

W.P.No.34578 of 2007

RLD(CO)
PM/25/10/2021