IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

1. W.P.No. 21083 of 2008

V.Ramachandran ..Petitioner

Vs

1.The District Revenue Officer,
Cuddalore,
Cuddalore District.

2.The District Collector,
Cuddalore District,
Cuddalore.

3.The Special Commissioner &
Revenue Administrative Commissioner,
Ezilagam, Chennai.

4.The Secretary to the Government
Revenue Department,
Secretariat, Fort St.George,
Chennai. ..Respondents

Prayer: writ petition is filed under Article 226 of Constitution of India for Writ of Certiorarified Mandamus, calling for the records of the 4th respondent's order dated 12.03.2008 in G.O.2D No. 124 and quash the order of punishment of stoppage of increment without cumulative effect for one year and for a direction to the respondents to treat the period of suspension as on duty with all consequential benefits to the petitioner and pass orders.

For Petitioner : Mr.R.Sunil Kumar

For Respondent : Mr.J.C.Durairaj, AGP

O R D E R

The prayer sought for in the writ petition is to call for the records of the 4th respondent's order dated 12.03.2008 in G.O.2D No. 124 and quash the order of punishment of stoppage of increment without cumulative effect for one year and for a direction to the respondents to treat the period of suspension as on duty with all consequential benefits to the petitioner and pass orders.

2. The writ petitioner had joined in the post of Junior Assistant at the District Backward Class & Minorities Welfare Office, Cuddalore on 01.04.2003. His Predecessor namely Singaravelu had handed over the charge of the said post to the petitioner on 11.04.2003 and that time he handed over only 59 numbers of files and 20 numbers of registers. The fact of having received the said number of files and the registers is witnessed by a list which was signed by the petitioner and his predecessor. He came to know that contrary to the said list, totally 90 files were missing in the section. The fact was also brought to the knowledge of his superior viz., District Backward Class & Minorities Welfare Officer. Thereafter the petitioner was transferred to the office of the Special Tahsildar, Land Acquisition (No.2), Neyveli w.e.f 25.07.2003. In connection with the said dispute, the petitioner's predecessor namely Singaravelu was issued with a charge memo under Section 17(A) of Tamil Nadu Subordinate Service (Disciplinary & Appeal) Rules on 06.02.2003 and based on the explanation submitted by him, he was relieved from the charges and reprimanded for his mistakes.

3. The learned counsel for the petitioner has further submitted that the petitioner was placed under suspension by order dated 05.11.2003 stating allegations that the petitioner had failed to hand over 89 numbers of files at the time handing over charge of his post to his successor. As sequel to the order of suspension, the petitioner was issued with a charge memo, framing four charges under Rule 17(b) of Tamil Nadu Subordinate Service (Disciplinary & Appeal) Rules. The petitioner has submitted a detailed explanation to the aforesaid charges and appeared before the enquiry officer and placed all the materials before the enquiry officer. The enquiry officer found the petitioner not guilty of all the four charges and accordingly he filed his report before the Disciplinary Authority.

4. The learned counsel for the petitioner has further submitted that without giving any opportunity of hearing the petitioner before disagreeing with the enquiry report, the Disciplinary Authority had passed an order, imposing punishment of stoppage of increment without cumulative effect for one year. Against the said order, the petitioner had preferred an appeal before the District Revenue Officer on 06.10.2005. The District Revenue Officer also rejected the petitioner's appeal by confirming the order of the disciplinary authority. Against the order of the DRO, the petitioner had preferred appeal before the 2nd respondent. The 2nd respondent also rejected the appeal. Thereafter, the petitioner has filed another appeal before the 4th respondent and the said appeal also dismissed on the ground 'no new facts or points are raised', which is impugned in the present writ petition.

5. According to the learned counsel for the petitioner, the petitioner has taken charge in the post of Junior Assistant and immediately, he had informed about the missing of files to the superior officer, therefore there is no mistake on the part of the petitioner and without any reason the respondent has framed charges against him and imposed punishment as against him. Apart from that, the petitioner has also specifically raised a ground that the Disciplinary Authority and Appellate Authority have imposed the punishment without affording opportunity to the petitioner to raise his objection, which is against the rules and on this ground the impugned order is liable to be set aside.

6. Per contra, the learned Additional Government Pleader has submitted that while the petitioner was working as Junior Assistant in the office of the District Backward Classes and Minorities Welfare Office, Cuddalore he had not handed over 74 current files and 15 disposed files to his successor and there caused loss of 89 Government files. Therefore, the charges were framed against the petitioner, subsequently after observing the usual procedure as per rules, orders were passed imposing punishment of stoppage of increment for a period of one year without cumulative effect by proceedings dated 28.09.2005. Subsequently, Appeal and Revision Petition preferred by the petitioner were also came to be rejected by the respondents. Therefore, there is no procedural lapses or irregularities on the part of the respondents as contented by the learned counsel for the petitioner.

7. Heard the rival submissions made by both the learned counsels and perused the materials available on record.

8. There is no dispute that the respondent had initiated the disciplinary proceedings by framing charges under Rule 17 (b) of Tamil Nadu Subordinate Service (Disciplinary & Appeal) Rules. The enquiry officer was appointed to enquire into the aforesaid charges. The petitioner has submitted a detailed explanation to the aforesaid charges. The enquiry officer has found the charges not proved. The said report was submitted to the 2nd respondent/District Collector, who reversed the findings of the enquiry officer and imposed punishment of stoppage of increment without cumulative effect for one year, without hearing the petitioner. The contention of the petitioner is that it is the duty of the disciplinary authority to give opportunity to submit his explanation before passing punishment order. Therefore, it violates the principles of natural justice as laid down in the various decisions of the Hon'ble Supreme Court and this Court.

9. A perusal of the impugned order reveals that the Disciplinary Authority had directed the petitioner to submit his explanation on 25.04.2005 and the petitioner has also submitted his explanation on 28.04.2005. Therefore, it is clear that only after getting explanation from the petitioner,

the impugned punishment order came to be passed. Therefore, the contention of the learned counsel for the petitioner that the petitioner was not given opportunity before imposing punishment is not correct and the same is rejected.

10. According to the respondents, the explanation submitted by the petitioner is an after thought, wherein it has been stated the petitioner has handed over the said missing files containing 79 current files and 15 disposed files, therefore it warrants interference of Rule 17(b) of Tamil Nadu Subordinate Service (Disciplinary & Appeal) Rules.

11. Admittedly, the Disciplinary Authority and the Appellate Authority had not satisfied with the explanation submitted by the petitioner, therefore the punishment order came to be passed. Ordinarily this Court cannot interfere with the discretion of the punishing authority in imposing particular penalty but this rule has exception. If the penalty imposed is grossly disproportionate with the misconduct committed, then the Court can interfere. But in the present case on hand, though the enquiry officer held not proved the charges levelled against the petitioner, the Disciplinary Authority and the Appellate authority based on the materials and after affording due opportunity to the petitioner for submitting his explanation by following due procedure, had passed the said punishment order. The said order was also confirmed by the Revisional authority and the Government. Therefore, in the absence said parameters, this Court is not inclined to interfere with the impugned punishment order passed by the authorities concerned.

12. On careful consideration, this Court finds that no sufficient ground has, therefore, been made out for interference by this Court for remanding or modification of the impugned punishment passed against the petitioner.

13. Accordingly, in view of the conclusions indicated herein before, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

ak

To

1.The District Revenue Officer,
Cuddalore,
Cuddalore District.

2.The District Collector,
Cuddalore District,
Cuddalore.

3.The Special Commissioner &
Revenue Administrative Commissioner,
Ezilagam, Chennai.

4.The Secretary to the Government
Revenue Department,
Secretariat, Fort St.George,
Chennai.

+1cc to Mr.R.Sunil Kumar, Advocate SR. No.64189
+1cc to Government Pleader SR. No.64846

W.P.Nos. 21083 of 2008

UM (CO)
PR (27/01/2022)