

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.3578 of 2021

V.Tamilalagan

... Petitioner

Vs.

1. The Registrar General
High Court of Madras
Chennai 600 104.

2. The District Judge-cum-Chief Judicial
Magistrate of the Nilgiris
Udhagamandalam
The Nilgiris District.

... Respondents

Prayer: Petition under Article 226 of the Constitution of India
praying for a writ of Certiorari calling for the records on
the file of the second respondent in D.E.No.01/2019 dated
14.08.2020 and quash the same.

For Petitioner : Mr.K.V.Sajeev Kumar

For Respondents : Mr.Karthick Ranganathan

ORDER

(Made by the Hon'ble Chief Justice)

Though an absurd argument is made at the initial stage, it
must be acknowledged that a more reasonable pitch was reached at
the subsequent stage.

2. A minor punishment has been imposed on the judicial staff
who is due to retire in the next few months. The initial
contention was that though the more rigorous procedure under
Rule 17(b) of the Tamil Nadu Civil Services (Disciplinary
Appeal) Rules had been followed, the punishment that was imposed

was not covered by Rule 17(b) of the said Rules.

3. Rule 17(b) of the said Rules refers to certain kinds of punishment indicated in Rule 8 of the said Rules and the procedure to be followed in such case. Rule 17(a), on the other hand, deals with the procedure to be followed if a minor punishment is proposed to be imposed. In the present case, on the basis of the charges levelled, it was initially proposed to impose a major penalty on the delinquent. However, a lenient view has been taken in the order impugned, considering the physical disability that the delinquent suffers from and a minor penalty has been imposed. It is utterly unacceptable that when a major penalty is proposed to be imposed and a more rigorous procedure is followed, if the proceedings culminate with a minor penalty being awarded, the procedure has seen to be flawed.

4. The more reasonable argument is that considering the nature of the charges and the fact that the petitioner is said to have pressed for his transfer without proceeding through the proper channel, a lesser punishment could have been imposed on the petitioner who is on the verge of retirement and it ought to have been a censure.

5. The charges are all related and the substance thereof is that the petitioner herein pursued his application for transfer in a rather unusual manner and approached the portfolio Judge directly without following the regular procedure of going through the District Judge and the Registrar-General in the High Court. There is no doubt that such conduct should not be condoned as the applications should be pursued only through the appropriate channel. A level of order has to be maintained in any service and, in particular, the dignity of the process in judicial service must be honoured.

6. Notwithstanding the finding of the guilt on the part of the petitioner herein, it appears that the punishment is harsh and shocking, particularly if it comes on the verge of the petitioner's retirement and will have retrospective operation with cumulative effect. Instead of withholding the last increments with cumulative effect, the more appropriate punishment appears to be to withhold the last increment that was made available to the petitioner together with the effect thereof as the consequence.

7. Accordingly, W.P.No.3578 of 2021 is disposed of by modifying the order of punishment from stoppage of three annual increments with cumulative effect to stoppage of the last annual increment with consequential effect.

8. Upon the writ petitioner retiring in the month of May or so, the retiral benefit should be disbursed to him as expeditiously as possible. The pensionary benefits which the petitioner would have otherwise been entitled to, would stand reduced as a result of the modified punishment.

9. There will be no order as to costs. As a consequence, WMP No.4069 of 2021 is closed.

10. The present petition has been entertained without requiring the petitioner to follow the appellate rule in view of the imminent retirement of the petitioner. This order should not be seen to be in aid of any proposition that the Writ Court may be approached without exhausting the domestic remedies.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

kpl
To

1. The Registrar General
High Court of Madras, Chennai 600 104.
2. The District Judge-cum-Chief Judicial
Magistrate of the Nilgiris
Udhagamandalam, The Nilgiris District.

+1 cc to M.K.V.Sajeev kumar Advocate sr10399

W.P.No.3578 of 2021

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