



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 02.02.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.25650 of 2005

K.Mohan

... Petitioner

Vs.

The Secretary to Govt.
Revenue (Ser-II(2)) Dept.,
Fort St. George, Chennai - 9.

... Respondent

Prayer : Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the respondent in connection with the impugned order passed by him in GO(2D) No.647 Revenue (Ser.II(2)) Department dated 25.10.04 and quash the same.

For Petitioner : Mr.K.Venkataramani
Senior Counsel
for Mr.Muthappan

For Respondents : Mr.K.Magesh
Special Government Pleader

ORDER

The prayer sought for in this writ petition is to issue a writ of certiorari calling for the records of the respondent in connection with the impugned order passed by him in GO(2D) No.647 Revenue (Ser.II(2)) Department dated 25.10.04 and quash the same.

2.The petitioner entered into service as Junior Assistant in the Revenue Department on 13.09.1968 and after so many promotions, he had served as District Backward Class Welfare Officer in the cadre of Deputy Collector, at Namakkal. While so, in the year 2000 i.e., prior to his superannuation, there was a disciplinary proceedings initiated against him, accordingly, a charge memo was filed against him and also he was placed under suspension pending the disciplinary proceedings. Challenging the suspension order as well as the charge memo issued by the respondent, the petitioner filed two original applications before the Tamil Nadu Administrative Tribunal, in O.A.No.6513 of



2000, he challenged the suspension order and in O.A.No.6065 of 2000, he challenged the charge memo.

3. In O.A. i.e. 6065 of 2000, where, he challenged the charge memo, the Tribunal passed an order directing the respondent to set aside the charge memo initiated by the Principal Commissioner and Commissioner of Revenue Administration and the Government can frame fresh charge memo as per the Rules of the Tamil Nadu Pension Rules and the respondent Department that is the Disciplinary Authority was directed to dispose of the disciplinary proceedings within a time frame of six months.

4. This order was passed by the Tribunal because in the meanwhile since the petitioner reached superannuation and he was not permitted to retire and his services was to be retained for completing the disciplinary proceedings under the relevant Rules of the Pension Rules, accordingly, fresh charge memo was issued by the Government on 21.01.2002, where, three definite charges have been framed against him and ultimately after having considered the explanation given by the petitioner, the Disciplinary Authority having come to the conclusion that, the proven charges are to be taken into account for the purpose of imposing a punishment on the petitioner, has passed an order that is the Government Order in G.O.(2D)No.647 Revenue (Ser.II (2)) Department dated 25.10.2004, whereby, he has imposed the punishment of pension cut of Rs.1000/- per month for two years. Challenging the said punishment awarded against the petitioner by the respondent Government, who was the Disciplinary Authority, under the impugned G.O.(2D)No.647, the present writ petition has been filed with the aforesaid prayer.

5. Mr.K.Venkataramani, learned Senior Counsel appearing for the petitioner would submit that, though initial charge memo was given to the petitioner, when it was challenged before the Tribunal on the ground that, the petitioner already superannuated by 29.02.2000, the charge framed already shall go and accordingly, a direction was given to frame charges to proceed with the disciplinary proceedings under the Tamil Nadu Pension Rules. For the said purpose, the services of the petitioner was retained under F.R.56(1)(c). Though three charges have been framed against the petitioner, no proper opportunity was given to him except to get an explanation from him and in this regard, there was no full-fledged enquiry conducted and what are the documents relied upon by the Department in the enquiry furnished by the petitioner were not supplied to the petitioner. Therefore, according to the learned Senior Counsel appearing for the petitioner, the entire disciplinary proceedings, which ended in the impugned order of punishment gets vitiated. Therefore, on that sole ground alone, the punishment imposed against the petitioner, being a Pensioner, in



cutting pension of Rs.1000/- for 24 months, can very well be interfered with by this Court, he contended.

6. However, Mr.K.Magesh, learned Special Government Pleader appearing for the respondent would submit that, initially charge was framed under Section 17-B of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and subsequently, pursuant to the direction given by the Tribunal in the application filed by the petitioner, as the petitioner since superannuated by then, charges were re-framed. Therefore, the procedure as has been contemplated under Rule 17-B in stricto sensu need not be followed. However, full opportunity was given to the petitioner, where, in respect of each of the three charges, the petitioner has given detailed explanation which was in fact considered and ultimately, it was found that the charges framed against the petitioner in all the three were proved. He would also submit that, for the three said proven charges, though some higher punishment could have been imposed, however, taking into consideration of the position that, the petitioner already retired from service, by taking a lenient view, only a punishment of cut in pension of Rs.1000/- per month for 24 months was imposed and that punishment also, when it was proposed, was accepted by the petitioner. Therefore, at this juncture, the said punishment which has already been imposed and undergone by the petitioner with his consent cannot be tinkered with as sought for in this writ petition, therefore, it is liable to be dismissed, he contended.

7. I have considered the said rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

8. As has been rightly pointed out by the learned Special Government Pleader appearing for the respondent, for the three proven charges, only a meagre punishment of cut in pension of Rs.1000/- for 24 months alone was imposed. Moreover, the petitioner was permitted to retire from service, of course, subsequently from the date of his superannuation i.e., from 29.02.2000 without prejudice to the disciplinary proceedings pending against him and at that point of time, what was the proposed punishment intended by the Disciplinary Authority was intimated and the view of the petitioner was sought for, where, it seems that, he has accepted the proposed punishment by the communication of the petitioner dated 28.06.2004 which has also been taken into consideration as Reference No.12 in the impugned order i.e., G.O.(2D)No.647.

9. Therefore, the punishment imposed and undergone by the petitioner is only a meagre one as it was cut in pension of Rs.1000/- per month for two years and long back the petitioner



has already undergone the punishment also. Therefore, this Court feels that, considering the charge framed against the petitioner, as has been proved, the punishment against the petitioner cannot be said to be a disproportionate one and therefore, this Court feels that, there is no plausible reason available to interfere with the said punishment already been imposed and has already been undergone by the petitioner.

10. Therefore, for all those reasons, this Court is not inclined to interfere with the impugned order, as the same is sustainable one. Hence, this Writ Petition is liable to be rejected, accordingly, it is dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Sgl
To

The Secretary to Government,
Revenue (Ser-II(2)) Dept.,
Fort St. George, Chennai - 9.

+1cc to the Government Pleader Sr.5554

W.P.No.25650 of 2005

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