

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.02.2021

C O R A M

The Hon'ble Mr. Justice SENTHILKUMAR RAMAMOORTHY

Writ Petition No.5447 of 2010

M.Suthakar Yesudian,

... Petitioner

vs.

1. The Agriculture Production Commissioner and
Secretary to Government of Tamilnadu,
Department of Agriculture,
Secretariat, Chennai-9.
2. The Director of Horticulture and Plantation Crops,
Agriculture Complex, Chepauk,
Chennai. Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records of the 1st respondent in G.O.(3D) No.29 dated 04.02.2010 and quash the same and direct the first respondent to promote the petitioner as Joint Director after promoting him as Deputy Director.

For Petitioner : Mr.S.V.Karthikeyan

For Respondents : Ms.R.J.Radhika, G.A.

O R D E R

The Writ Petitioner challenges an order dated 04.02.2010 of the first Respondent whereby the Petitioner was punished by way of censure.

2. The Petitioner was working as an Assistant Director of Horticulture (Planting Materials) at the office of the Deputy Director of Horticulture, Thiruvavur. During such period, he was served with a charge memo dated 27.11.2006 under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Three charges were framed against the Petitioner. All these charges relate to the Petitioner providing a false report that no disciplinary proceedings were pending against a subordinate official called R.Rajendiran. The Petitioner does not deny that he had wrongly communicated that no disciplinary proceedings were pending against the said Rajendiran, but contends that it was an inadvertent error on his part.

3. In order to fortify the above submission, the learned counsel for the Petitioner points out that the Petitioner had

limited assistance during the relevant point of time. Before issuing the incorrect report, he verified the service register and found that there was no entry therein with regard to disciplinary proceedings against the said Rajendiran. He also questioned the said Rajendiran as to whether any disciplinary proceedings were pending against him and only, thereafter, issued a communication / report stating that there were no disciplinary proceedings pending against the said Rajendiran.

4. Learned counsel for the Petitioner points out that immediately upon discovering the error and ascertaining that there was a disciplinary proceeding against the said Rajendiran, the Petitioner informed the authorities concerned. These facts were also stated by the Petitioner in the reply dated 20.12.2006 to the charge memo. Upon receipt of the enquiry report also, the Petitioner provided an explanation stating that he did not intentionally provide wrong information and certainly did not do so in order to intentionally aid and assist the said Rajendiran.

5. Learned counsel also contends that the aforesaid explanation was not taken into account either by the inquiry officer or by the disciplinary authority and that, therefore, the order impugned is liable to be interfered with on the ground of non-application of mind.

6. Learned Government Advocate, on the other hand, relies upon the counter affidavit and contends that the Petitioner admitted that he had filed a false report with the superior officer. Therefore, the official Respondents contend that the punishment of censure is not liable to be interfered with.

7. The scope of judicial review against disciplinary proceedings is limited. In the exercise of supervisory jurisdiction, this Court examines whether the principles of natural justice were adhered to in the conduct of disciplinary proceedings. In addition, the Court examines whether the decision of the disciplinary authority is perverse and whether the punishment imposed is so grossly disproportionate as to shock the conscience of the Court.

8. In the case at hand, the undisputed position is that the Petitioner received the charge memo dated 27.11.2006 and submitted a reply thereto on 20.12.2006. It is also the admitted position that the Petitioner received the inquiry report dated 23.01.2008 and submitted representations and explanations pursuant thereto. Thus, the principles of natural justice were clearly complied with.

9. Upon perusal of the inquiry report and the impugned order, it is evident that the materials on record were appraised and the conclusion, on that basis, that the Petitioner had made a false statement that no disciplinary proceedings were pending against the said Rajendiran was certainly not a perverse conclusion. Although there may be

some truth in the contention of the learned counsel for the Petitioner that the Petitioner did not wilfully or with a mala fide intention provide wrong information with regard to Mr.Rajendiran, that does not constitute a valid basis to interfere with the order impugned herein. The settled legal position is that the Court does not sit in appeal over the sufficiency or quality of evidence unless it can be concluded that the decision was based on no evidence or on completely irrelevant evidence or that vital evidence was disregarded. The present case does not fall within any of the aforesaid categories. Therefore, it cannot be said that the order impugned herein is perverse. As regards the punishment imposed on the Petitioner, the admitted position is that the minor penalty of censure was imposed. Therefore, there is no basis to conclude that such punishment is grossly disproportionate.

10. For the reasons set out above, I find that the order impugned herein does not warrant interference by this Court. Accordingly, W.P.No.5447 of 2010 is dismissed. There will be no order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kal

To

1. The Agriculture Production Commissioner and
Secretary to Government of Tamilnadu,
Department of Agriculture,
Secretariat, Chennai-9.

2. The Director of Horticulture and Plantation Crops,
Agriculture Complex, Chepauk,
Chennai.

+1cc to Mr.V.Karthikeyan, Advocate SR.No. 11652

Writ Petition No.5447 of 2010

A.SK(18.03.2021)