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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.25886 OF 2011

K.MUTHULINGAM

413/2, BHAKTHA NAGAR, IV CROSS STREET,
PERIYAKURICHI, NEYVELI-607802,
CUDDALORE DISTRICT.

... PETITIONER

Vs.

- 1 THE GOVERNMENT OF TAMILNADU
REP.BY THE PRINCIPAL SECRETARY TO THE
GOVERNMENT, REVENUE DEPARTMENT,
FORT ST. GEORGE, CHENNAI-600 009.
- 2 THE ADDITIONAL DIRECTOR OF SURVEY
AND LAND RECORDS,
CHEPAUK CHENNAI-600 005.
- 3 THE REGIONAL DEPUTY DIRECTOR
OF SURVEY AND LAND RECORDS,
CHEPAUK CHENNAI- 600 005.
- 4 THE ASSISTANT DIRECTOR OF
SURVEY AND LAND RECORDS,
CUDDALORE, CUDDALORE DISTRICT.

...RESPONDENTS

Prayer :

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records relating to the impugned order of the first respondent in G.O.(2D) No.284 dated 09.07.2011 confirming the orders passed by the second respondent Na.Ka.Lla 1/29484/2009 (Ni.A) dated 28.05.2010 and the order passed by the third respondent in Na.Ka.A3/2793/09 dated 19.06.2009 and the order passed by the fourth respondent in Na.Ka.A3-1418-07 dated 10.06.2008 and quash the said orders and grant all consequential benefits to the petitioner and further direct the fourth respondent to issue orders with regard to the regularization of the suspension period from 08.02.2007 to 03.12.2007.



For Petitioner : Mr.Manoj Kumar

For Respondent : Mr.T.Arunkumar, A.G.P.

O R D E R

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According to the petitioner, the petitioner was working as Field Assistant in the office of the Town Surveyor, Chidambaram. The petitioner was Initially appointed as Field Assistant in the year 1983 on consolidated pay and thereafter, he was appointed in the regular Time Scale post with effect from 19.11.1990. While so, based on the complaint preferred by the petitioner's daughter-in-law, he was arrested and remanded to custody from 8.2.2007 to 15.2.2007 in a criminal case registered against him and charge sheet filed in C.C.No.108 of 2007 before the Judicial Magistrate, Neyveli under Sections 498(a), 509, 354 and 506(ii) of I.P.C. In the aforesaid criminal case, the petitioner was arrayed as A-2 and his wife was arrayed as A-1. In the meantime, disciplinary proceedings was initiated against the petitioner wherein three charges were framed against the petitioner by the Assistant Director of Survey and Land Records, Cuddalore on 19.2.2007 and enquiry officer was also appointed. According to the petitioner, all the 3 charges were related to the aforesaid criminal case. Enquiry officer has held that charges No.1 and 3 were not proved and charge No.2 alone has been proved against the petitioner. The second charge levelled against the petitioner is that he suppressed the material fact that he was arrested and remanded in custody in a criminal case, by applying medical leave while he was under custody. Based on the enquiry report, the disciplinary authority imposed punishment of stoppage of increment for a period of three months with cumulative effect. Challenging the said order, the petitioner has preferred an appeal and the punishment was confirmed by the appellate authority and the Review also dismissed. Aggrieved by the same, the petitioner has preferred the present writ petition to set aside the punishment order.

2. According to the learned counsel appearing for the petitioner, there is no specific charges levelled against the petitioner. The second charge was framed against the petitioner for non disclosure of material fact that the petitioner was arrested and remanded in prison in the aforesaid criminal case. Therefore, the punishment awarded by the respondent is totally misconceived and the same is liable to be set aside. Further, it is submitted that in the criminal case, trial was conducted and the case ended in acquittal on merit. Therefore, all the charges framed against the petitioner were ended in acquittal in the aforesaid criminal case. Therefore, orders passed by the disciplinary authority as well as appellate authority are legally unsustainable and liable to be quashed.



3. The learned Additional Govt. Pleader appearing for the respondents would submit that all the charges framed against the petitioner are specific. The enquiry officer found that out of three charges levelled against the petitioner, charge No.1 and 3 were not proved and the second charge levelled against the petitioner that he did not disclose the material fact to the authorities that he was remanded in prison in connection with the aforesaid criminal case as proved. Therefore, the impugned order passed by the respondent is perfectly valid and no warrants to interfere with the punishment order passed by the respondents.

4. Heard the rival submissions of the parties and perused the materials available on record.

5. On a perusal of record shows that out of three charges framed against the petitioner, the enquiry officer found that the charge No.1 and 3 were not proved and charge No.2 is proved. It is relevant to extract charge No.2 hereunder:

''அரசு பணியாளரான இவர் காவல் துறையினரால் கைது
செய்யப்பட்டு அடைப்பு, காவலில் உள்ளபடி இவர் சார்ந்த துறைக்கும்,
அரசுக்கும் இழுக்கு ஏற்படுத்தியது.

6. According to the learned counsel appearing for the petitioner, at the time of framing charges, it is not the case of the respondents that he produced false medical certificate before the authorities concerned. The punishment was imposed on the charge of non disclosure of fact that he was arrested and remanded in custody in a criminal case filed against the petitioner. The reason stated by the authorities concerned is that police registered a criminal case against the petitioner on the file of Judicial Magistrate, Neyveli in C.C.No.108 of 2007 for the offence under Sections 498(a), 509, 354 and 506(ii) of I.P.C. and he was arrested and remanded in prison from 8.2.2007 to 15.2.2007. The aforesaid criminal case was ended in acquittal. However, non disclosure of arrest and remand in the criminal case is a violation of Tamil Nadu Civil Service (Discipline and Appeal Rules) Rules. The petitioner ought to have informed the same to the authorities concerned. Therefore, to that extent, this Court is not inclined to interfere with the impugned order passed by the respondent.

7. Coming to the punishment of stoppage of increment for a period of three months with cumulative effect imposed on the petitioner, taking note of the fact that a criminal case was registered in C.C.No.108 of 2007 before the Judicial Magistrate, Neyveli for the offence under Sections 498(a), 509, 354 and 506



(ii) of I.P.C. was ended in acquittal, this Court is inclined to modify the punishment imposed against the petitioner as, 'Stoppage of increment for a period of three months without cumulative effect'. The impugned order is modified to the aforesaid extent.

8. Consequently, the writ petition is partly allowed with the above observations. Liberty is granted to the petitioner to make representation to the authorities concerned in this regard. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1 THE PRINCIPAL SECRETARY TO THE GOVT.,
GOVERNMENT OF TAMILNADU, REVENUE DEPT.,
FORT ST. GEORGE, CHENNAI-600 009.
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CUDDALORE, CUDDALORE DISTRICT.

+1cc to Mr.P.Rajendran, Advocate, S.R.No.62192
+1cc to the Government Pleader, S.R.No.62618

W.P.No.25886 of 2011

RGN(CO)
PM/14/12/2021