



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	21.10.2021
DELIVERED ON	24.11.2021

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN
AND

THE HONOURABLE MR. JUSTICE R.VIJAYAKUMAR

W.A.No.2572 of 2021

T.Veerannan

...Appellant

vs.

1.The Special Commissioner
and Commissioner of Revenue Administration,
Chepauk,
Chennai - 600 005.

2. The District Revenue Officer,
Tiruchirappalli.

3. The Revenue Divisional Officer,
Tiruchirappalli.

...Respondents

Prayer: Writ Appeal filed under clause 15 of the Letter Patent, against the the order dated 26/3/2021 made in W.P.No.7526 of 2007 by Hon'ble Mr.Justice P.Velmurugan.

Prayer in W.P. No. 7526/2007:

This writ petition has been originally filed before the Tamil Nadu Administrative Tribunal as O.A.4666/02 and after abolition of TNAT, it has been transferred to this court and renumbered as W.P.No.7526/2007. The prayer is for a writ of certiorarified mandamus to call for the records of the impugned order of punishment of stoppage of increment for three years with cumulative effect vide proceedings Na.Ka.A4.10566/91 dated 25.05.1995 passed by the third respondent, the impugned order Na.Ka.C2.45845/96 dated 19.12.1996 passed by the second respondent and the impugned order Na.Ka.Pani.5(3)/15128/97 dated 16.08.2001 passed by the first respondent herein and quash all of them as null and void and against the principles of natural



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justice and direct the respondents herein to pass appropriate order of giving appropriate increment and other service and monetary benefits retrospectively.

For Appellant : Mr.R.Charubala

For Respondents : Mr.K.Tippu sultan for R1 to R3
Government Advocate

JUDGMENT

(Judgment of the Court was delivered by R.VIJAYAKUMAR, J.)

The writ petitioner is the appellant. The writ petitioner was working as a Village Administrative Officer in the year 1985. He was suspended from the service on 11.10.1991 and a charge memo was served upon him on 06.11.1991. After departmental enquiry, the petitioner was imposed with a punishment of stoppage of increment with cumulative effect for a period of three years. The order was passed by the third respondent herein.

2.The writ petitioner filed an appeal before the second respondent and the same was also confirmed by the second respondent by his order dated 09.12.1996. The writ petitioner filed a revision before the first respondent herein and the same was also dismissed on 16.08.2001. Thereafter, the writ petitioner filed O.A.No.4666 of 2002 before the Tamil Nadu Administrative Tribunal. The said O.A. was transferred to the High Court and numbered as W.P.No.7526 of 2007.

3.The learned Single Judge was pleased to dismissed the writ petition confirming the punishment imposed on him. As against the same, the present writ appeal has been filed.

4.While the petitioner was in service, the petitioner was issued a charge memo on 03.11.1991 mainly on two charges viz., (i) the writ petitioner has issued property ownership certificate to some of the persons who were not holding patta without verifying the documents and (ii) the writ petitioner has recommended for issuance of SC community certificate in favour of three persons without properly verifying the antecedents and the community of those three persons. Based upon the said recommendation, a community certificate was issued which was later cancelled.

5.The writ petitioner had contended that he had not issued land ownership certificate but only issued building ownership certificate to those persons. The writ petitioner had further contended that only after proper verification, he has



6. The third respondent in the writ petition was appointed as Enquiry Officer. In his enquiry, he has found that the land ownership certificate can be issued only for occupied Natham land and not for the lands for which patta have already being issued. According to the findings of the Enquiry Officer, the writ petitioner has no jurisdiction whatsoever to issue land ownership certificate with regard to a patta land.

8. Moreover, the writ petitioner has relied upon the applicants' uncle's daughter's community certificate for such a recommendation. The Enquiry Officer has found that the initials of the father of the applicants and the fathers as well as the brother are completely different and there was no proper enquiry conducted by the writ petitioner. The enquiry report was accepted and punishment of withholding of increment with cumulative effect for a period of three years was imposed.

10. The learned Single Judge has dismissed the writ petition holding that the writ petitioner has recommended for issuance of community certificate to those who are not residing in the address in the application and has issued land ownership certificate without jurisdiction.

12. The counsel for the appellant had contended that the Tahsildar who was signed the community certificate has been imposed with a lesser punishment. He further contended that there cannot be any discrimination in the nature of punishment imposed between the two co-delinquents who are involved in the same delinquency.

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Village Administrative Officer is responsible for conducting the field enquiry and only based upon his report, the Tahsildar issued a community certificate. Hence, the delinquency of the Village Administrative Officer is higher than that of the Tahsildar. Hence, the contention of the appellant that the co-delinquents have been treated different is not sustainable.

14.The learned counsel for the appellant further contended that he has only recommended for issuance of ownership certificate who are in actual possession of the property and the said recommendation it is only recommendatory in nature. It is clear from the enquiry report, the land ownership certificate was issued to a patta land while the patta has been issued in the names of some third parties.

15.The writ petitioner has chosen to issue certificate to the persons whose names are not found in the patta. The writ petitioner has got jurisdiction to issue such a certificate based on the possession only if it is occupied Natham and not for patta lands. Hence, this contention of the appellant is also devoid of any merits.

16.The learned counsel for the appellant contended that though this community certificate issued to three persons were cancelled later after a detailed enquiry, the same community certificate again was reissued to the same applicants. Hence, he contended that there is no delinquency on his part in recommending for issuance of community certificate to those applicants.

17.In the present case, without receiving any orders from the Tahsildar, to whom an application was submitted, the writ petitioner has himself chosen to send a recommendation to the Tahsildar. The writ petitioner has relied upon a community certificate of an alleged close relative of the applicants to send a recommendation. The enquiry reveals that the initials of the applicant's father and that of the father of the other community certificate holder are completely different. Hence, the contention of the writ petitioner that his recommendations were finally accepted is not correct.

18.The delinquency that was charged as against the petitioner is the manner in which he made suo moto recommendations relying upon materials unconnected with the community certificate. Hence, the issuance of same community certificate to the same applicants but on a later point of time after a detailed enquiry, cannot be a defence for the writ petitioner to challenge the punishment.



19. The Hon'ble Supreme Court in a judgment in the case of Union of India and Others vs. P. Gunasekaran reported in 2015 2 SCC page 610 in paragraph Nos. 12 and 13 has held as follows:

12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;
- (b) the enquiry is held according to the procedure prescribed in that behalf;
- (c) there is violation of the principles of natural justice in conducting the proceedings;
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;
- (i) the finding of fact is based on no evidence.

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

- (i) reappreciate the evidence;
- (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;
- (iii) go into the adequacy of the evidence;



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- (iv) go into the reliability of the evidence;
- (v) interfere, if there be some legal evidence on which findings can be based.
- (vi) correct the error of fact however grave it may appear to be;
- (vii) go into the proportionality of punishment unless it shocks its conscience.

20.Hence, we are not in a position to reappreciate the evidence and interfere with the conclusions in the enquiry in view of the seriousness of the charges, we do not find the punishment imposed is shockingly disproportionate.

21.In view of the above said discussion, we do not find any ground to interfere with the order of the learned Single Judge and hence the Writ Appeal stands dismissed. No costs.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

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To

1.The Special Commissioner
and Commissioner of Revenue Administration,
Chepauk,
Chennai - 600 005.

2. The District Revenue Officer,
Tiruchirappalli.

3. The Revenue Divisional Officer,
Tiruchirappalli.

+1 CC to Mr.R.Charubala, Advocate sr 61221
+1 CC to The Government Pleader sr 61081.

W.A.No.2572 of 2021

BR(CO)
SP(21/12/2021)