



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.2219 of 2019

and W.M.P. (MD) No.1769 of 2019

(Through Video Conference)

WEB COPY

N.Mahalakshmi,
Deputy Director,
District Employment Office,
Madurai District,
K.Pudur, Madurai.

... Petitioner

Vs

1. The State of Tamil Nadu,
Rep. By its Secretary to Government,
Labour and Employment (No.1) Department,
Secretariat, St.George Fort,
Chennai 600 009

2. The Director of Employment and Training,
Guindy, Chennai 32

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 02.12.2014 in G.O.(D) No.576 confirming the order of the 2nd respondent dated 08.01.2013 in O.Na.2/26043/2012 and quash the same as illegal and consequentially restore the petitioner's seniority on par with the juniors already promoted.

For Petitioner : Mr.M.Ajmal Khan,
Senior Counsel
For Mr.A.K.Manickam

For Respondents : Mr.M.Muniyasamy,
Additional Government Pleader

O R D E R

The petitioner herein, while working as the Assistant Director, Professional and Executive Employment Office, was levelled with certain charges for non-sponsoring of an individual, who had registered his additional qualification as M.E. The petitioner had rendered her explanation to the effect that she had joined the post of Assistant Director only with effect from 24.11.2011 and therefore, was not liable for the charges. However, the respondents have chosen to proceed against her departmentally and ultimately, awarded a punishment of stoppage of increments for a period of three



months, with cumulative effect.

2. As against the same, the petitioner had preferred an appeal before the first respondent, who had rejected the same on 26.05.2014. The order did not carry reasons for the rejection and therefore, the petitioner had filed a writ petition in W.P.(MD) No.9785 of 2014 and this Court taking note of the fact that the order was a non-speaking order, had set aside the same and remanded back to the first respondent for reconsideration, for the purpose of passing a reasoned and speaking order.

3. Pursuant to the orders of this Court, the present impugned order dated 02.12.2014 was passed by the first respondent, confirming the original order of punishment of stoppage of increment, for a period of three months without cumulative effect, dated 02.12.2014. Challenging the same, the present writ petition has been filed.

4. The learned senior counsel for the petitioner submitted that Rule 23 of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, 1955, prescribes the procedure to be adopted by the Appellate Authorities while dealing with the Appeals. The said Rule is extracted hereunder for ready reference:-

"Rule 23: Power and Procedure of the Appellate Authorities:

(1) In the case of an appeal against an order imposing any penalty specified in rule 8 or 9, the appellate authority shall consider--

(a) whether the facts on which the order was based have been established;

(b) whether the facts established afford sufficient ground for taking action; and

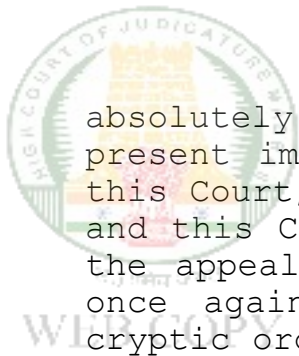
(c) whether the penalty is excessive, adequate or inadequate and pass orders--

(i) confirming, enhancing, reducing, or setting aside the penalty; or

(ii) remitting the case to the authority which imposed the penalty or to any other authority with such direction as it may deem fit in the circumstances of the case:"

5. In this background, the impugned order dated 02.12.2014 of the first respondent was perused. It is seen that, once again, the first respondent herein, in a mechanical manner has passed a cryptic order, which could be said as a one-line order, though it runs to four pages, had rejected the appeal, without assigning any reasons.

6. As observed earlier, Rule 23 requires the Appellate Authorities to consider the facts on which the order was passed has been established and whether there were sufficient grounds for taking action on the proportionateness of the charges. There is



absolutely no compliance of the requirements of Rule 23 in the present impugned order since the petitioner had earlier approached this Court, challenging a similar non-speaking order and this Court had also directed the first respondent to reconsider the appeal, by passing a speaking order, the first respondent had once again adopted the same mechanical procedure, by passing a cryptic order. Taking into consideration of this callous attitude in disregarding the earlier orders of this Court, no useful purpose would be served by again resorting to remanding the matter once again. This Court expresses its disappointment on the authority exercised by the first respondent, inspite of the directions given by this Court.

7. In the result, the impugned order dated 02.12.2014 in G.O. (D) No.576 confirming the order of the 2nd respondent dated 08.01.2013 in O.Na.2/26043/2012 is quashed. The writ petition stands allowed. It is needless to point out that in view of the quashing of the disciplinary proceedings, the petitioner would be entitled to all service and monetary benefits, as if he has not been subjected to departmental proceedings at all. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To:

1. The Secretary to Government,
Labour and Employment (No.1) Department,
Secretariat, St.George Fort, Chennai 600 009
 2. The Director of Employment and Training,
Guindy, Chennai 32
- +1 CC to M/s.GP (SR-5142[F] dated 15/02/2021)

Order made in

W.P. (MD)No.2219 of 2019

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SSS(CO)

KK(16.02.2021) 3P 4C

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