



W.P.No.4507 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2022

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.4507 of 2010

and

M.P.No.1 of 2012

C.Manivannan

.... Petitioner

vs

The Secretary to Government,
School Education Department,
Fort St.George,
Chennai -9

.... Respondent

Writ Petition filed under Article 226 of the Constitution to issue a Writ of Certiorari to call for the records of the respondent in connection with the impugned order passed by him in G.O.2D.No.76 School Education A2 Department dated 24.12.2009 and quash the same.

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

For Respondent : Mrs.S.Mythereye Chandru
Special Government Pleader

ORDER

This writ petition has been filed by the petitioner challenging the order of punishment of stoppage of increment for a period of 4 years with



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cumulative effect.

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2. The petitioner joined service as Junior Assistant in the Treasury & Accounts Department, Krishnagiri District on 12.03.1984. He was promoted as Assistant in the same Department in 1995. Thereafter, he served as Accountant in Krishnagiri Sub-Treasury from 1998 – 2004. While so, the petitioner detected that the pay bills for the month of August, 2002 produced for realization was found to contain number of corrections relating to Column No.9 for March & April, 2002. The petitioner immediately informed the Assistant Treasury Officer, Sub-Treasury, Krishnagiri, about the same. On the information furnished by the petitioner, the Assistant Treasury Officer, sent a communication to the Assistant Elementary Education Officer, Kaveripattinam, and directed him to submit an explanation. The Asst. Elementary Education Officer, Mr.Chandramohan vide letter dated 28.08.2002 confirmed the same and stated that Junior Assistant Muthukumaraswamy is in charge of the bills in the office and further stated that he will get explanation from him and submit to the Department. After receiving the reply from the Asst. Elementary Education office, Kaveripattinam, the Asst. Treasury Officer, Krishnagiri, preferred a complaint to the Inspector of Police, Krishnagiri Town and requested to take



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action against the officials of the Assistant Elementary Education Officer's office. Hence, a criminal case was registered against Muthukumaraswamy, Junior Assistant and others for the offences of breach of trust, misappropriation of funds and tampering of official records. But unfortunately, the petitioner and the Sub-Treasury Officer who have found out the tampering and misappropriation of funds were also issued with a charge memo under Rule 17(b) of TNCS (D&A) Rules and the petitioner was imposed with the punishment referred to above. Hence, this writ petition has been filed.

3. Heard the learned Senior Counsel appearing for the petitioner and the learned Special Government Advocate appearing for the respondents.

4. On perusal of records, it is seen that only on the information given by the petitioner about the tampering of the records in August 2002, a criminal case was registered. It is an admitted fact that the Secretary to Government, School Education Department has initiated the disciplinary proceedings against the petitioner and no common enquiry was conducted by the Department for arriving at a conclusion regarding the alleged delinquency committed by the Treasury staff as well as the Education Department Staff. The petitioner was able to find out the corrections



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regarding the amount made in Column No.9 of the bills for the month of August 2002 when the register was produced before him. Hence, no responsibility can be foisted on the petitioner for not detecting the same at the earliest point of time if the staff dealing with the bills in the Education Department refused to produce the register pertaining to TNTC 70 Register for the subsequent bills. The matter relating to accounts should have been tried by an Officer who is well versed in the accounts in the Treasury Department instead of an Officer in the Education Department. The Enquiry Officer, from the Education Department, cannot be expected to have knowledge about the functioning of the Treasuries department. It is seen that the officers in the Treasury Department have been accused more than the staff in the Education Department. The passing of the bill which is duly attested, without corrections, when it was presented to the petitioner, will never become a delinquency attracting departmental action against the petitioner. Further, the enquiry officer's report itself will speak to the fact that by cross-examining the petitioner, he arrived at the conclusion that the petitioner has committed the delinquency. The Hon'ble Supreme Court has held that in order to prove the charges, it is necessary that the concerned



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staff should be examined to speak about the noting in the file for the proof of the delinquency and mere production of the records will be of no consequence for the proof of the charges. If the delinquent denies the charges, it is the duty of the disciplinary authority and the enquiry officer to examine the witnesses in proof of the charges. None of the charges referred to in the charge memo and the statement of allegations have been proved through any witness and there is no discussion regarding the documents relied on by the prosecution for the proof of the charges against the petitioner. Therefore, this Court is of the view that the punishment imposed on the petitioner is without application of mind and hence, the same is liable to be set aside.

5. In the result, the impugned order dated 24.12.2009 is hereby set aside and the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

12.12.2022

Index: Yes/No
Speaking/Non-speaking order
vsi
To
The Secretary to Government,
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