



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9346 of 2019

K.Viswanathan

... Petitioner

Vs.

1.The Principal Secretary to
Government of Tamil Nadu
Revenue and Disaster Management
(Ser-7(2) 1 Department
Fort St. George,
Chennai – 600 009.

2.The Principal Secretary and
Commissioner of Revenue Administration
Ezhilagam
Chennai – 600 005.

3.The Commissioner
Tribunal for Disciplinary Proceedings,
Thanjavur – 7.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the production of the records relating to the proceeding dated 18.11.2009 made in proceedings Ser.V(2)88396/2001 passed by the 2nd respondent as confirmed by the 1st respondent by rejecting appeal by order dated 03.04.2018 made in G.O.(D).121 Revenue and Disaster Management (Ser.7(2) Department,



quash the same and direct the 2nd respondent to pay all the monetary service benefit to the petitioner consequently.

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For Petitioner : Mr.S.Shanmugasundaram

For Respondents : Mr.S.Rajesh
Government Advocate

ORDER

The punishment of removal from service imposed on the petitioner is under challenge in the present writ petition.

2. The petitioner was appointed as Village Administrative Officer on 23.05.1984. A charge memo dated 04.08.1992 was issued by the Tribunal for Disciplinary Proceedings. The charge against the writ petitioner reads as under:

“CHARGE

That actuated by corrupt notice and in abuse of your official position and authority, while you (Accused officer) were working as Village Administrative Officer, Marungoor Village, on a day during July 1990, when Thiru.K.Lakshaprabhu, S/o Thiru.Krishnasamy Padayachi, C.Keeranur Vridhachalam Taluk, met



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you (Accused officer) at you office at Maungoor and requested to arrange for the issue of ownership certificate and extracts of chitta, adangal and “A” Register etc., for getting electricity power connection to the bore well in the land in S.No.202/2, Marugoor Village, you (Accused Officer) had demanded an illegal gratification of Rs.1,000/- and he the said Thiru.K.Lakshaprabhu obtained the certificate regarding the ownership in respect of the 1 and in S.No.202/2 from the Tahsildar, Vridhachalam and there after on 13.10.90 at about 7.00 P.M when he not you (Accused Officer) at your hare at Karmangudi and requested for the issue of extracts of chitta, adangal and “A” Register etc., you (Accused officer) had demanded an illegal gratification of Rs.500/- and when he pleaded reduced the demand to Rs.200/- and in pursuance of the said demand you (Accused Officer) had accepted illegal gratification of Rs.200/- on 15.10.90 at about 21.20 hours at your residence at south street, vridhachalam from the said Thiru.L.Laksha Prabhu.”



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3. The disciplinary proceedings against the writ petitioner was referred to the Tribunal for Disciplinary proceedings, Thanjavur and numbered as Tribunal Disciplinary Proceedings No.33 of 1997. The Tribunal conducted an elaborate trial by affording an opportunity to the writ petitioner and submitted its report on 29.12.2000, holding that the charges relating to corruption against the petitioner were proved. Based on the findings of the Tribunal for Disciplinary Proceedings, the Disciplinary Authority passed the order in proceedings dated 18.11.2009, imposing the penalty of removal from service. The petitioner preferred an Appeal before the 1st respondent on 15.12.2009 and the 1st respondent after obtaining the views of the Tamil Nadu Public Service Commission, passed final orders in G.O.(D).No.121, Revenue and Disaster Management (Ser.7(2)) Department dated 03.04.2018, confirming the punishment of dismissal from service. Thus, the petitioner is constrained to move the present writ petition.

4. The learned counsel for the petitioner states that the complainant was not examined. The complainant died on 03.06.1991 and therefore, the petitioner lost his opportunity to cross-examine the complainant before the Tribunal. Therefore, the findings of the Tribunal is perverse. It is contended that the 2nd respondent had not considered the materials, which would reveal



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that the petitioner had not committed any such misconduct. The Village Administrative Officer is not competent to issue copies of Chitta and Adangal and therefore, there was no necessity for the deceased / complainant to approach the petitioner for issuance of any such certificate. When the Village Administrative Officer is not vested with the power to issue any such Chitta and Adangal, the question of approaching the petitioner by the complainant had not arisen. Thus, the very complaint is untenable.

5. The learned counsel for the petitioner reiterated that the Tribunal had not considered the fact that the petitioner lost his opportunity to cross-examine the complainant and therefore, the findings of the Tribunal are perverse and the punishment is liable to be set aside.

6. The respondents had stated that the petitioner, while working as Village Administrative Officer, Marungoor Village, Virudhachalam District, demanded a sum of Rs.1,000/- as bribe from one Thiru.K.Lakshaprbhu son of Thiru.Krishnaswamy Padayachi C.Keernanoor for issuing certificates and Village Register extracts for power connection to the bore well in Marungoor Village in Survey No.202/2 and to get a certificate from Tahsildar,



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Virudhachalam, during the month of July 1990. The petitioner demanded Rs.500/- for him alone. Subsequently, the petitioner came down from his demand on 13.10.1990 and accepted Rs.200/- from ThiruK.Laksha Prabhu on 15.10.1990 at about 21.20 hours at his residence as bribe. The Commissioner for Disciplinary Proceedings framed charges on the alleged illegal demand and acceptance of money. Since the allegation is about demand and acceptance of bribe, the disciplinary proceedings referred to the Tribunal for Disciplinary Proceedings, who in turn, conducted an enquiry by affording opportunity to the writ petitioner. The prosecution proved the case against the writ petitioner and accordingly, the punishment of removal from service was imposed.

7. The respondents have stated that the findings of the Tribunal was elaborate and based on the documents and evidences. Thus, the Disciplinary Authority as well as the Appellate Authority accepted the findings of the Tribunal and considered the gravity of proved misconduct of corruption and accordingly, imposed the punishment of dismissal from service. It is further contended that views of the Tamil Nadu Public Service Commission had been obtained on the Appeal filed by the petitioner before passing final orders. The opinion of the Tamil Nadu Public Service Commission reads as



under:

“The findings of the Tribunal that the complainant did not approach the appellant to issue the Chitta and Adangal for the purpose of getting loan, but it was getting electricity power connection to the bore well in the particular survey number is correct. Moreover, the appellant has not produced any witnesses to defend the allegation against him. The appellant has not mentioned any supportive rule or produced any document before the Tribunal and further, the appellant was not denying the charges against him before the Tribunal. Hence, the commission is of the opinion that the appeal preferred by the appellant may be rejected as devoid of merits and the punishment of “Removal from Service” may be confirmed and advises the Government accordingly.”

8. Considering the arguments as advanced between the parties, the nature of the charges against the writ petitioner are grave in nature and regarding demand and acceptance of bribe for issuing a certificate. Since the charge relates to illegal gratification, the disciplinary proceedings was referred to the Tribunal for Disciplinary Proceedings. The Tribunal for



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Disciplinary Proceedings, conducted an elaborate trial by affording opportunity to all the parties. The petitioner was afforded with an opportunity to cross-examine the prosecution witnesses and the findings of the Tribunal reveals that the demand and acceptance of bribe by the petitioner was proved by the prosecution. The findings of the Tribunal are categorical and based on the documents and evidences available. The complainant was not examined, since he died and merely on the basis of the fact that the original complainant died, the entire proceedings cannot be dropped. The other witnesses and documents are available and for establishing the charges in the departmental disciplinary proceedings, the preponderance of probabilities are enough.

9. Considering the probabilities and based on the documents and evidences, the Tribunal examined the other witnesses and considered the documents available and accordingly, held that the charges were proved. Prosecution witness one Mr.Saravanan was categorical and the incident occurred on 15.10.1990, which was narrated by the P.W.1 – Nedumaran, P.W.2 – Sekar, P.W.3 – Devarajan, P.W.4 – Kasthuri, P.W.5 – Anbuselvi, P.W.6 – Selvi and P.W.20 – Sakthivel were scrutinized by the Tribunal elaborately and the entire events established the charge against the writ



petitioner. Further, the Tribunal specifically recorded the finding that the prosecution witnesses had not stated anything contrarily even during the cross-examination. Thus, the charge was proved beyond doubts.

10. In the present case, the departmental disciplinary proceedings were conducted by following the procedures as contemplated. The rules of natural justice had been complied with and thus, there is no infirmity.

11. As far as the findings of the Tribunal for disciplinary proceedings are concerned, it is based on the documents and evidences and the deposition of the prosecution witnesses and their statements in the cross-examinations were elaborately considered by the Tribunal for Disciplinary Proceedings and finally, the Tribunal found that the charge against the writ petitioner is held proved. Thus, the findings of the Tribunal for Disciplinary Proceedings is based on documents and evidences and based on the narration of facts by the prosecution witnesses, which were not contradicted by such witnesses even during the cross-examination by the charged officials. Thus, the findings of the Tribunal is based on evidences and there is no perversity as such.



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12. The charge against the writ petitioner is demand and acceptance of bribe. Thus, it is grave in nature and therefore, this Court do not found any dis-proportionality in imposing the punishment of removal from service. Since the acceptance of bribe was held proved, the punishment of removal will be the right punishment and cannot be construed as disproportionate.

13. For the reasons stated in the aforementioned paragraphs, this Court do not find any acceptable reason for the purpose of interfering with the quantum of punishment of removal from service.

14. Accordingly, the writ petition is devoid of merits and stands dismissed. No costs.

24.11.2022

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Index : Yes

Speaking order



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