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W.P.No.38062 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.38062 of 2016
and
W.M.P.No.32621 of 2016

P.Saraswathi

...Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Public (Rehabilitation-I) Department,
Secretariat, Chennai-9.

2. Director of Rehabilitation and
Welfare of Non Resident Tamils,
Chepauk, Chennai-5.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the G.O. (Ms) 816 Public (Rehabilitation-I) Department dated 11-09-2014 and G.O.(2D) 13 Public (Rehabilitation-I) Department dated 21-05-2015 passed by the 1st respondent, and quash the same, and direct the respondents to regularize the period of suspension as duty and confer all the consequential benefits, including revision of Pension.



W.P.No.38062 of 2

For Petitioner : Mr.P.Ganesan for
M/s.C.S.Associates

For Respondents : Mr.S.Rajesh
Government Advocate

ORDER

The order of punishment of Censure imposed on the writ petitioner and the sequential order regulating the period of suspension are under challenge in the present writ petition.

2. The petitioner was working as Personal Assistant to the Commissioner of Rehabilitation and Welfare of Non Resident Tamils and a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) rules was imposed against the writ petitioner on 24.01.2014 on three counts. The petitioner denied the charges by submitting explanations. Not satisfied with the explanation, the Competent Authority appointed an Enquiry Officer, who in turn conducted an enquiry by affording opportunity to the writ petitioner and submitted his report holding that the charges are partly proved. Based on the findings of the Enquiry Officer, the Disciplinary Authority provided further opportunity to the petitioner to file her objections and thereafter issued final orders imposing the penalty of



"Censure". Consequentially the period of suspension was also regulated in accordance with the rules.

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3. The learned counsel for the petitioner made a submission that on account of the punishment of Censure, the petitioner lost her opportunity for promotion and the period of suspension was also treated as Unearned Leave and she lost monetary benefits. Therefore, the order impugned are liable to be set aside.

4. The learned counsel for the petitioner is of an opinion that the allegations are very minor in nature and that apart, there was no delay in processing the file, for grant of scholarship to the Sri Lankan refugee students during the relevant point of time. Meager delay if at all occurred, the petitioner cannot be held liable for the same and therefore, the punishment is to be set aside.

5. This Court is of the considered opinion that the factual aspects which were adjudicated by the Enquiry Officer and Disciplinary Authority need not be gone into by this Court at this point of time. The factual adjudications were elaborately done by the Enquiry Officer with reference



to the documents and evidences. The Disciplinary Authority also considered the findings of the Enquiry Officer. No doubt, the charges proved against the writ petitioner are certainly of lapses and dereliction of duties and considering the non-seriousness involved, the respondents have imposed the punishment of Censure.

6. The findings of the Disciplinary Authority reveals that, due to the delay occurred at the instance of the petitioner, the timely benefit could not be reached to the students on time. The Enquiry Officer in his findings stated that there is no material in the connected records to show that the accused officer failed to maintain absolute integrity. Therefore, there is no allegation of misappropriation or otherwise. Though the accused officer had failed to supervise and monitor the work of her subordinate, which had resulted in the delay in payment of scholarships of the Sri Lankan refugee students, therefore, the delay part of the charge was proved against the writ petitioner.

7. In view of the fact that the charge regarding the delay in paying the scholarship to the Sri Lankan refugee students was established, the



Disciplinary Authority imposed the minor penalty of Censure. Thus, this Court do not find any disproportionality in imposing the punishment. Regulating the period of suspension as per the rules, is only a consequential proceeding. That apart, the punishment of Censure has a currency for a period of one year and the case of the writ petitioner for promotion is to be considered only after the currency of punishment of censure is imposed on her. However, the petitioner reached the age of superannuation and therefore, she could not able to secure promotion after the expiry of the currency of punishment.

8. Such being the factum, this Court do not find any infirmity in imposing the punishment of Censure, which is a minor punishment and therefore, the punishment imposed cannot be construed as disproportionate to the gravity of the proved charges and thus, the writ petition is devoid of merits and accordingly the writ petition stands **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

17.10.2022

Index : Yes
Speaking order
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To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Public (Rehabilitation-I) Department,
Secretariat, Chennai-9.
2. Director of Rehabilitation and
Welfare of Non Resident Tamils,
Chepauk, Chennai-5.

W.P.No.38062 of 2



S.M.SUBRAMANIAM, J.

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