



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2022

CORAM

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.P(MD)No.19943 of 2015

1.C.Mokkaraj (died)

2.Amirtham

3.Devakumar

4.Premkumar

5.Chinna Veera Thevar

... Petitioners

(P2 to P5 substituted by Court order dated

17.02.2020 in WMP(MD)

Vs.

1.The Appellate Authority & Zonal Manager,
LIC of India, Southern Zonal Office,
153, Anna Salai, Chennai-600 002.

2.The Disciplinary Authority & Senior Divisional Manager,
LIC of India, Divisional Office,
Sellur, Madurai-2.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the order of the first respondent dated 13.08.2015 confirming the order of punishment dated 31.03.2015 passed by the second respondent and quash both of them as illegal.

For Petitioners : Mr.M.E.Ilango

For Respondents : Mr.G.Prabhu Rajadurai

ORDER

The petitioner was appointed as Assistant in the year 1989 and has worked as Cashier from 1992 to 2002. He was promoted as Higher Grade Assistant in the year 2002 and thereafter, he was promoted as AAO during the year 2013. Since there was disciplinary proceedings, the promotion of AAO was withheld and presently, the petitioner is working as HGA at City Branch-1, Madurai.

2.On 31.03.2011, the then Cashier Mr.N.Muthu Irulappa Pillai and AAO(Accounts) Mr.S.Ramakrishnan approached the petitioner to ratify the cancellation of cash receipt No.116113. Since 31.03.2011 happened to be last working day of the financial year, due to the work pressure, the petitioner expressed inability to ratify the same. It was informed to the petitioner that the concerned person, namely, HGA (Accounts) was not available at that time and since remittance has to be made to the Bank urgently, they are making such



request. Even though it was not the responsibility of the petitioner, he obliged to the request and has signed the same. Thereafter, the petitioner came to know that AAG (Accounts) and HGA (Accounts) have signed a self drawn cheque of the Corporation for a sum of Rs.20,000/- and substituted the cancellation.

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3.After the lapse of one year and seven months through a letter dated 10.10.2012, the second respondent sought an explanation about the said cash payment and cancellation. The petitioner submitted his explanation dated 26.12.2012. But the second respondent was not satisfied with the same. Hence, charge sheet dated 11.06.2014 was issued framing three charges. The Enquiry Officer has passed an order dated 05.11.2014. Based on the enquiry report, the second respondent, on 31.03.2015, has imposed punishment of reduction of three stages in the time scale of pay applicable to the cadre along with recovery of Rs.5,000/-.

4.The petitioner preferred an appeal and the same was rejected on 31.08.2015. Because of the punishment, the petitioner has suffered huge monetary loss to the tune of Rs.36 Lakhs (both pre and post retirement). Therefore, the petitioner has challenged the impugned order dated 31.08.2015 and order dated 31.03.2015.

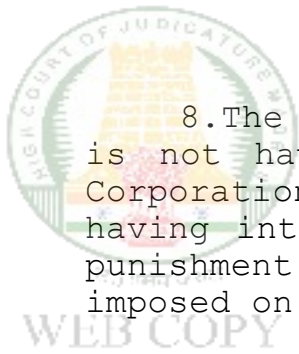
5.The respondent filed counter stating that four officers were involved in the said transaction and all the four officers were charged and imposed the same punishment. The petitioner has not followed the guidelines issued to handle such transactions and he has not followed the safety measures and proceeded for ratification of the cancellation. Because of this negligence, the punishment was imposed. Since all the four delinquents were imposed same punishment, the petitioner is not entitle to plead for separate treatment. There is no violation of principles of natural justice in the enquiry process and hence, the writ petition is liable to be dismissed.

6.Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents and perused the materials available on record.

7.The learned counsel for the petitioner brought to the notice of this Court regarding enquiry report, which has been stated as follows:-

"Hence from my enquiry I conclude that,

There is no intention on the part of the CSF to act against the interest of the Corporation and the only mistake committed by him was that he has not followed the system and procedure while ratifying the cancellation of cash transactions. The mistake on his part, not adhering the procedure led to the misappropriation of Rs.20,000/-."



8.The enquiry report categorically stated that this petitioner is not having any intention to act against the interest of the Corporation. And the corollary is that the other delinquents are having intention to defraud. When there is no intention, then same punishment for petitioner is not legally sustainable. The punishment imposed on par with others delinquents ought to be interfered with.

9.The learned counsel for the petitioner submitted that a sum of Rs.20,000/- was imposed on the four delinquents. Since there is negligence without intention, the petitioner may be imposed with the punishment of payment of Rs. 5,000/-, which was imposed as recovery.

10.However, the learned counsel for the respondent submitted that if the recovery is allowed, it will amount to accepting the punishment and hence, other punishment of reduction of three stages in the time scale of pay, cannot be interfered with.

11.On perusing the entire materials on record, it is seen that the petitioner died and his legal heirs are impleaded vide order dated 17.02.2020 in WMP.(MD)No.2439 of 2020 in WP.(MD)No.19943 of 2015. It is also seen that the petitioner was 54 years at the time of filing this petition and he would have attained superannuation, if he was alive. The contention of the petitioner is that he would incur loss nearly, Rs.36 Lakhs (both pre and post retirement). In fact, initially the petitioner has refused to ratify the cancellation, it is because of the concerned authority was not available, he was inclined to signed it and coupled with the fact that the Enquiry Officer has categorically stated that the petitioner was not having any intention to create any loss to the Corporation. Therefore, taking note of all these factors into consideration, this Court is of the considered opinion that the impugned order as far as the punishment of reduction of three stages in the time scale of pay applicable to the cadre is set aside. The petitioner is liable to pay a sum of Rs.5,000/-, which is recovery amount. The respondents are directed to deduct Rs.5,000/- from his terminal benefits and pay the balance to the family of the deceased petitioner.

12.With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (Records)

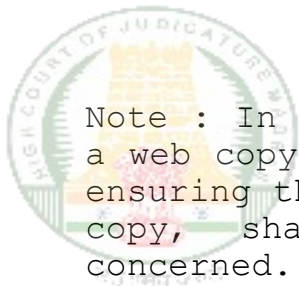
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Sub Assistant Registrar(CS)

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+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-4301[F] dated
04/02/2022)

W.P (MD) No.19943 of 2015
03.02.2022

RK(15/02/2022) 4P 4C