



W.P.(MD)No.20188 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.11.2022**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.20188 of 2015

and

M.P.(MD)Nos.1 & 2 of 2015

T.Mallika

... Petitioner

Vs.

1. The Secretary to the Government of Tamil Naud,
Social Welfare and Nutricious Meal Department,
Secretariat,
Fort St.George,
Chennai.

2. The Director of Social Defence,
No.300, Purasaivakam High Road,
Kelley's, Chennai – 600 010.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in No. 3209/A1/2007, dated 17.05.2010 on the file of the Respondent No.2 and



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the impugned order in G.O.(Pani)No.79, Social Welfare and Nutritious Meal Department, dated 22.07.2014 on the file of the Respondent No.1 and quash the same as illegal and consequently to direct the Respondents to re-fix the pay scale of the Petitioner by providing the withheld increments and to refix the pension forthwith.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.C.Baskaran
Government Advocate (Civil side)

ORDER

This Writ Petition is filed for Writ of Certiorarified Mandamus, to quash the impugned order, dated 17.05.2010 and the consequential order, dated 22.07.2014 and direct the respondents to re-fix the pay scale of the petitioner by providing the withheld increments and to refix the pension forthwith.

2. The brief facts as stated in the affidavit is that the petitioner was recruited as Junior Assistant on 14.09.1977 through Tamil Nadu Public Service Commission and was posted at Senior Approved School,



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Chengalpet, which is now named as the Special Home for Boys under the Directorate of Social Defense. In the year 1978, the petitioner was transferred to Madurai, thereafter was transferred to various places. The petitioner attained superannuation on 31.05.2013. While the petitioner was in service in the year 2006, a Charge Memo, dated 21.07.2006 was issued leveling six charges against the petitioner and the charges are that the petitioner failed to grant safe protection of a jewel (mookkuthi) of an inmate, namely, Surumbayee and thereby was negligent in duty. The petitioner submitted her explanation for the same on 18.08.2006, stating that the Matron is responsible for the custody of the belongings of the inmates and as the Matron Komalavalli admitted that she had misplaced the article somewhere. Therefore, the petitioner directed the said Komalavalli to buy a same type of new Jewel and handed over to the inmate, though the inmate herself did not demand for the same. The Enquiry Officer submitted the report stating that the charges No.1 and 2 are proved and the rest of the charges are not proved. Based on the enquiry report, the petitioner submitted further explanation and without considering the explanation, the second respondent imposed the



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punishment of stoppage of increment for three years with cumulative effect, vide order, dated 17.05.2010. The petitioner has preferred an appeal. In the appeal, the respondent reduced the punishment to two and a half years instead of three years. Aggrieved over the same, the present writ petition has been filed.

3. The second respondent has filed a counter affidavit, wherein, it is stated that the petitioner has committed the same dereliction of duty twice within a period of two months. Therefore, the present disciplinary proceedings were initiated against the petitioner. The respondent further contended that the petitioner is the Superintending authority for the said Matron, namely, Komalavalli. The petitioner failed to take action against the said Komalavalli, since there is dereliction of duty of the said Komalavalli. Hence, the punishment of three years without cumulative effect is sustainable under law and that has been considered in the appeal on sympathetic ground and it has been reduced to two and a half years. Therefore, the punishment is sustainable under law. Therefore, the respondent prayed to dismiss the writ petition.



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4. Heard Mr.T.Lajapathi Roy, learned Counsel appearing for the petitioner, Mr.C.Baskaran, learned Counsel appearing for the respondents and perused the records.

5. It is seen from the records that the petitioner has not taken any action against the Matron, namely, Komalavalli. However, the petitioner has resolved the issue by substituting the Jewel by spending her own money and saved the Matron. The petitioner contends that she should be considered sympathetically, since the inmate herself has not raised any allegation against the petitioner. Moreover, the petitioner has not taken the Jewel. According to the Matron, the Jewel was misplaced.

6. Hence, the Learned Counsel submitted that the ought to be seen in a sympathetic view by considering the petitioner's explanation and reduced the punishment and further submitted that the petitioner has put in service for 36 years and also retired from service on 31.05.2013. Therefore, this Court is of the considered opinion that the impugned



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order is liable to be set aside and hence the impugned order of punishment is set aside. The official respondent shall implement the order and disburse the consequential benefits to the petitioner within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. With the above said direction, this Writ Petition is allowed.

No costs. Consequently, connected miscellaneous petitions are closed.

03.11.2022

Index : Yes / No
Internet : Yes / No
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To

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Chennai.
2. The Director of Social Defence,
No.300, Purasaivakam High Road,
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S.SRIMATHY, J

jbr

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