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W.P(MD)No.22646 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 04.02.2022

Pronounced on : 06.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P(MD)No.22646 of 2021

S.Kumaravel

Vs

... Petitioner

1.The Director of Rural Development
and Panchayat Raj,
Panagal Building,
Saidapet, Chennai - 600 015.

2.The District Collector,
Madurai District,
Madurai - 625 020.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the second respondent i.e., the District Collector, Madurai to reduce the punishment of increment stoppage of awarded in the District Collector, Madurai's proceedings in Na.Ka.No.12234 of 2012 dated 11.03.2013 from three years to three months in respect of the petitioner also as was done by this Court in the case of M.Adhimoolam in W.P(MD)No.10106 of 2014 dated 18.11.2021, within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondent : Mr.A.Kannan,

Nos.1 and 2 Additional Government Pleader



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ORDER

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This writ petition is filed for a mandamus directing the second respondent the District Collector, Madurai to reduce the punishment of stoppage of increment imposed by him on the petitioner, vide proceedings dated 11.03.2013 in Na.Ka.No.12234/2012-Voo.Va.5, as per the order dated 18.11.2021, passed by this Court in W.P(MD)No.10106 of 2014.

2.The petitioner, who is working as Junior Assistant in the Panchayat Union Office, Alanganallur was imposed with punishment of stoppage of increment for a period of three years in the departmental proceedings initiated against the petitioner and one Adhimoolam for the incident took place in the Panchayat Union Office at Vadipatti on 11.02.2012.

3.The allegation as against the petitioner and the other delinquent Adhimoolam is that during the office hours both under the influence of Alcohol quarrelled with each other and they were also charged for dereliction of duty. For this incident they were issued with a charge memo under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules.



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In conclusion of the enquiry, the enquiry officer filed a report that the charges were not proved. However, the disciplinary authority differed from the report of the enquiry officer and imposed punishment of stoppage of increment for a period of three years with cumulative effect vide proceedings No.12234 of 2012 dated 11.03.2013 to both of them. As against the punishment, the co-delinquent Adhimoolam preferred an appeal before the Director of Rural Development and Panchayat Raj and the same was dismissed vide proceedings in Na.Ka.No.83587/2013/DPC2-1, dated 17.02.2014 by confirming the punishment imposed by the disciplinary authority.

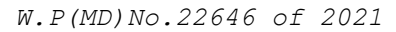
4.Challenging the said punishment, the co-delinquent has filed a writ petition before this Court in W.P(MD)No.10106 of 2014 and this Court held that there is no proof for the charge that the petitioner and the co-delinquent were under the influence of alcohol at the time of quarrel and they were not taken for medical examination and there is no scientific evidence substantiating the allegations against them and allowed the writ petition filed by the co-delinquent observing that the punishment of stoppage of increment for three years with cumulative effect and treating the suspension as penalty is excessive. However, this Court considering the fact that the



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petitioner Adhimoolam had quarrelled with this petitioner Kumaravel during office hours and spoiled the decorum of the office, reduced the punishment to three months. The order in W.P(MD)No.10106 of 2014 was passed on 18.11.2021 and based on that the petitioner has preferred this writ petition for directing the second respondent the District Collector, Madurai to reduce the punishment imposed on this petitioner vide the impugned order.

5.The learned Counsel for the petitioner submits that the petitioner and other delinquent are friends. They were working in the Panchayat Union Office at Vadipatti. They were doing their work in a common table due to lack of sufficient space. While so, one file was mistakenly taken by the co-delinquent Adhimoolam and therefore, in search of the said file, the petitioner had wordy quarrel with him but, the same was exaggerated and disciplinary action was initiated. The enquiry officer found that the charges were not proved. However, the disciplinary authority imposed punishment of stoppage of increment for a period of three years with cumulative effect to both the petitioner and the co-delinquent Adhimoolam.



7.The learned Additional Government Pleader appearing for the respondents submits that the petitioner Kumaravel, Junior Assistant and Adhimoolam Assistant, while they were in duty on 11.02.2012, in a drunken state quarrelled with each other in the Office. The Vice Chairman in his statement dated 30.03.2012 had also clearly stated that the delinquent along with some others, quarrelled with each other. Further the preliminary enquiry conducted by the Assistant Director (Audit) reveals that the delinquent officer was in a drunken state and some altercation took place between this petitioner S.Kumaravel and the co-delinquent Adhimoolam.



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8.The learned Additional Government Pleader further submits that the delinquent failed to inform the incident to his superior and there is no enquiry on this aspect by the enquiry officer and therefore, the disciplinary authority disagreed with the report of the enquiry officer. However explanation was obtained from the petitioner and since it was not satisfactory, the punishment came to be imposed. Further the disciplinary authority held that the delinquent officer failed to maintain the decorum and decency and behaved in a manner, which is unbecoming of a Government servant. He is a bad example for others and has lowered the rank of the dignity of his post and of the government office. Hence imposed censure as punishment and the period of suspension was ordered to be treated as eligible leave. As against which, the appeal filed by the co-delinquent was dismissed by the appellate authority. However, this Court in W.P(MD)No.10106 of 2014 reduced the punishment to three months by order dated 18.11.2021. Now the department is intending to prefer an appeal challenging the order dated 18.11.2021.

9.Heard the learned Counsel on either side and perused the materials placed on record.



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10.This writ petition is filed for a writ of mandamus directing the second respondent the District Collector, Madurai, to reduce the punishment of increment stoppage imposed by him vide the proceedings dated 11.03.2013, based on the orders of this Court in W.P(MD)No.101016 of 2014, dated 18.11.2021. No doubt on the writ petition filed by the co-delinquent this Court reduced the punishment to three months by holding that the charge that they were in a drunken state was not established in the departmental proceedings with any medical or scientific evidence. Though the respondents claim that they are intending to prefer an appeal, so far no appeal is filed by the department. The charges as against this petitioner and the co-delinquent and the punishment imposed on them are one and the same. Therefore the petitioner is also entitled for the benefit of reduction of punishment, as extended to the co-delinquent. But this writ petition is filed for a mandamus directing the second respondent District Collector, Madurai, to reduce the punishment based on the orders passed by this court in W.P(MD)No.10106 of 2014, dated 18.11.2021.

11.The District Collector as a disciplinary authority imposed punishment by order dated 11.03.2013. As against that order, the petitioner is having an appeal remedy. However, the



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petitioner has not preferred any appeal within the statutory period. The disciplinary authority after passing orders in the disciplinary proceedings becomes *functus officio* and he cannot review his own order. Similarly the petitioner is not in a position to file any statutory appeal in view of the limitation. Therefore this Court is not inclined to allow this writ petition, though the petitioner is entitled for the relief of reduction of punishment as extended to the co-delinquent in W.P(MD)No.10106 of 2014. However considering the facts and circumstances of the case, this Court passes the following order:

the petitioner is at liberty either,

(i) to prefer a statutory appeal before the first respondent the Director of Rural Development and Panchayat Raj, within a period of one month from the date of receipt of a copy of this order by enclosing the order of this Court dated 18.11.2021 passed in W.P(MD)No.10106 of 2014 along with a copy of this order and on filing of such statutory appeal, the appellate authority / the first respondent shall take the appeal on file without sticking on the limitation and dispose of it as expeditiously as possible,



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or

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(ii) to file a writ petition before this Court challenging the order of punishment imposed by the second respondent the District Collector in Na.Ka.No.12234 of 2012 dated 11.03.2013.

12.The writ petition is disposed of on the above terms.

No costs.

06.07.2022

dsk

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Director of Rural Development
and Panchayat Raj,
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Saidapet, Chennai - 600 015.

2.The District Collector,
Madurai District,
Madurai - 625 020.To



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B.PUGALENDHI, J.

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