



W.A.No.1433 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE K.KUMARESH BABU

W.A.No.1433 of 2019
and
C.M.P.No.9881 of 2019

1.The Secretary to Government,
Home (Transport IIA) Department,
Secretariat,
Chennai – 9.

2.The Special Commissioner and
Transport Commissioner,
Chepauk,
Chennai – 600 005.

... Appellants

Vs.

J.Sagaya Arokiya Nayagi

... Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying
to set aside the order dated 26.02.2018 in W.P.No.11854 of 2010.

For Appellants : Mr.Vadivelu Deenadayalan

For Respondent : Mr.R.Prem Narayan



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JUDGMENT

WEB COPY(Judgment of the Court was delivered by R.SURESH KUMAR, J.)

The respondent was working as a staff i.e. Typist in the appellant Department. During the relevant period a charge has been framed under which there were two charges, first charge is that, certain bills have not been properly vouched in the computer and second charge, by virtue of that, there has been a loss to the exchequer to the extent of Rs.83,304/-.

2. Enquiry was conducted based on the Enquiry Officer's report, he has given ultimate finding that the charge No.1 has not been proved and charge No.2 alone is proved, based on which, a punishment of stoppage of increment for three years with cumulative effect has been inflicted against the respondent, as against which, she filed a writ petition which was allowed by the Writ Court by order dated 26.02.2018 in W.P.No.11854 of 2010. Aggrieved over the same, the present appeal has been directed by the appellant.

3. Heard Mr.Vadivelu Deenadayalan, learned Additional Government Pleader appearing for the appellant and Mr.R.Prem Narayan, learned counsel appearing for the respondent.

4. The Enquiry Officer, insofar as the two charges are concerned,



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has given the following finding:

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“The computers in RTO office Tiruchy are not allotted to the staff electronically with security lock by 'password' and 'user name'. The RTO instructed all staff to complete the work so that they had worked during night hours also.

So the responsibilities of operating the computers or deleting wrong entries from the computers was not vested with Tmt.J.Sagaya Arokia Nayagi alone. She produced evidence in 5 cases for Rs.83,204/- that she collected, cancelled and remitted in to Government account and in 81 cases the records not available, since all the records were taken by the City Crime Branch Police, Trichy due to a criminal case filed against all the above 17 persons including Tmt. J.Sagaya Arokia Nayagi.

Due to her innocence and lack of training in computers she did the mistakes. Loss of revenue to the Government is involved in this case. It is noticed that lack of training to the individual is also a cause for these cancellation of wrong entries. The cancelled chalans are not pasted in some cases in the scroll because she entered another chalans with correct data. The amount collected was remitted into the Government account on the same day.

Hence, the amount of Rs.83,304/-, out of Rs.1,44,069/- which said to be not remitted in to



Government account, was actually remitted in to Government account in another receipt numbers. Since the delinquent officer is not able to prove that she had not committed any irregularity with regard to charge 2 by furnishing proper evidence/proof for Rs.60,675/- in 81 days of the transactions, I have to hold the charge 2 as partially proved.

Though tampering the records have not been proved the loss of revenue by the failure of the individual in the integrity in duty is proved.

Therefore, the Charge No.1 leveled against Tmt.J.Sagaya Arokia Nayagi is NOT PROVED and Charge No.2 leveled against her is PROVED.”

5. Based on his finding only the Disciplinary Authority had inflicted the said punishment which has been confirmed by the Appellate Authority.

6. After having gone through the same, the learned Judge has given the following finding in the impugned order:

“14. For all the above said reasons, this Court is of the considered view that the entire disciplinary action is vitiated on more than one ground as concluded by this Court in the preceding paragraph. This is a case of no evidence and therefore, the findings by the Enquiry Officer in respect of the second charge and the punishment



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imposed by the second respondent on such flawed finding and a non-speaking order by the appellate authority viz., the Government, cannot be countenanced in law. In such view of the matter, this Court is of the considered view that the petitioner has made out a clear case for quashing of the impugned punishment. Therefore, the impugned proceedings passed by the second respondent in Proc.R.No.2906/VB1/ 2002 dated 20.06.2008 and the consequential order passed by the first respondent in G.O.(3D) No.64, Home (Tr.II-A) Department, dated 30.10.2009, are hereby quashed and the respondents are directed to grant all the monetary and service benefits to the petitioner withheld due to the above punishment. The direction of this Court shall be complied with by the respondents, within a period of eight weeks from the date of receipt of a copy of this order.”

7. We have gone through the said materials i.e., the charge framed against the delinquent, the findings given by the Enquiry Officer as well as the discussion and finding given by the learned Judge.

8. The Enquiry Officer, in fact, has stated that the responsibilities of operating the computers or deleting wrong entries from the computers was not vested with Tmt.J.Sagaya Arokia Nayagi alone i.e. the contesting respondent/writ petitioner. Therefore the Enquiry Officer had stated that the first charge is not proved, insofar as the second charge is concerned, i.e., loss of Rs.83,304/-, the Enquiry Officer has held that the charge No.2



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has been partly proved.

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9. Therefore out of the two charges, according to the Enquiry Officer, first charge is not proved, second charge only partly proved, that means the loss to the exchequer was to an extent of Rs.83,304/- a vouch has come for some amount, but, for the remaining amount of Rs.60,765/- it has not come to the exchequer and no explanation had been given.

10. That is the reason why, though the Enquiry Officer submitted that the second charge was proved, however the fact remains that, for the loss of Rs.60,765/- the reason cannot be attributed only on the contesting respondent/writ petitioner. This we could find it at the earlier paras where he has stated that, therefore the responsibility of fixing the person working in one computer are difficult.

11. This aspect has been considered in proper perspective by the learned Judge who passed the order impugned and ultimately he has held that, the entire disciplinary action is vitiated on more than one ground as concluded by the Court.

12. He has held that, this is a case of no evidence and therefore the



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finding given by the Enquiry Officer in respect of the second charge and the punishment imposed by the 2nd respondent, on such flawed finding and a non speaking order of the Appellate Authority i.e., the Government cannot be countenanced in law.

13. We are in agreement with the said finding given by the learned Judge which is based on the very reasoning given by the Enquiry Officer himself in his report, which we have quoted herein above.

14. In view of the same, we do not find any error in such approach of the learned Judge who passed the order which is impugned herein, resultantly this appeal fails, hence it is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

[R.S.K., J.] [K.B., J.]
07.08.2023

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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