



W.P.No.18682 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.18682 of 2016

S.Raja

...Petitioner

Vs

1. The Superintendent of Post Offices,
Department of Posts,
Dindigul Division, Dindigul-624 001.
 2. The Senior Superintendent of Post Offices,
Department of Posts,
Kovilpatti Division (ADA),
Kovilpatti – 628 501.
 3. The Director of Postal Services,
O/o. The Postmaster General,
Southern Region (TN),
Madurai – 625 002.
 4. The Postmaster General,
Southern Region (TN),
Madurai – 625 002.
 5. The Presiding Officer,
Central Government Industrial Tribunal- cum-Labour Court,
Chennai – 600 006.
- ...Respondents



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Petition under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the fifth respondent Tribunal-cum-Labour Court, which is made in I.D.No.28 of 2011 dated 25.2.2015, quash the same and consequently direct respondents 1 to 4 to reinstate the petitioner into service with all attendant benefits.

For Petitioner : Mr.R.Malaichamy

For Respondents : Dr.G.Babu, CGSC, for R1 to R4

ORDER

This Writ petition has been filed seeking quashment of the order of the 5th respondent dated 25.02.2015 made in I.D.No.28 of 2011 and to consequently direct respondents 1 to 4 to reinstate the petitioner into service with all attendant benefits.

2. The case of the petitioner is that he joined the service of the respondent Postal Department as Branch Postmaster at Nellore Branch on 30.10.1995. While so, all of a sudden, he was served with a charge sheet, alleging that, he did not credit a sum of Rs.9,000/- purportedly to have been accepted from one Ponnathal for opening a 4-year Time Deposit Account and was subsequently dismissed from service, vide order dated 28.02.2007, aggrieved by which, the petitioner preferred an appeal before the 3rd



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respondent/Appellate Authority, which was rejected by an order dated 29.02.2008. Not satisfied with that, the petitioner filed a revision before the 4th respondent, which also ended in dismissal, vide order dated 24.08.2008. Aggrieved by the order of dismissal, earlier the petitioner filed O.A.No.791 of 2008 before the Central Administrative Tribunal. However, it was dismissed as withdrawn by order dated 11.11.2009 with liberty to move the Industrial Tribunal. Thereafter, the petitioner filed a petition before the Commissioner of Labour (Conciliation), Chennai, and on failure, the matter was referred to the 5th respondent and was taken up on file in I.D.No.28 of 2011, in which, the present impugned order dated 25.02.2015 came to be passed, dismissing the said dispute. Challenging the same, the petitioner has come up with this Writ petition.

3. Learned counsel for the petitioner submitted that, for alleged misconduct committed by the petitioner, he was removed from service by an order of the 2nd respondent dated 28.02.2007 and the subsequent appeal, revision and original application filed by the petitioner, challenging the said dismissal order ended in failure, which resulted in raising an industrial



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dispute in I.D.No.28 of 2011. Though the said Ponnathal admitted that her son had written the complaint, however, her son has not been shown as witness and examined during the enquiry and the additional documents as requested by the petitioner were not supplied to him and the 2nd without considering any of the representations and replies sent by the petitioner, passed the order of dismissal dated 28.02.2007, which is not sustainable. Though the statements were obtained from the petitioner under coercion, which was retracted during the preliminary enquiry, however, the same was not considered either by the original or appellate authority or the revisional authority. He further submitted that, though such a serious allegation was made against the petitioner, the same was not supported by any material or oral evidences and without any proof, the 5th respondent, vide present impugned order, dismissed the dispute raised by the petitioner, which is *per se* illegal. Hence, he prayed for appropriate orders.

4. Learned Central Government Standing counsel appearing for the respondents 1 to 4 submitted that, for certain misconduct committed by the petitioner, he was placed under off duty on 06.1.2005 vide proceedings of



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the Assistant Superintendent of Post Offices, Nilakottai Sub-Division, Kodai Road, which was subsequently ratified by the proceedings of the 2nd respondent, vide memo dated 18.01.2005. Thereafter, the petitioner was served with a charge memo dated 29.6.2005 by the 2nd respondent as per the relevant Rules for committing financial irregularity to the tune of Rs.9,000/- and an inquiry was conducted and the Inquiry Officer held the charge as proved and thereby, submitted the inquiry report dated 23.11.2006 to the 2nd respondent, pursuant to which, he was removed from service by an order dated 28.2.2007. Further, it is pertinent to note that, the subsequent appeal, revision filed by the petitioner also ended in dismissal and O.A.No.791 of 2008 filed before the Central Administrative Tribunal was also subsequently withdrawn by the petitioner by order dated 11.11.2009 with liberty to move the Industrial Tribunal. Further, the present dispute referred, pursuant to the conciliation failure also ended against the petitioner. When all the fact finding authority including the tribunal held against the petitioner, confirming the order of dismissal passed by the 2nd respondent, filing the present Writ petition is not sustainable. Hence, he prayed for dismissal of this Writ petition.



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5. Heard the learned counsel for the petitioner and the learned Central Government Standing Counsel appearing for respondents 1 to 4 and perused the material documents placed on record.

6. The major allegation made against the petitioner is that, the petitioner, while he was working as Post master, Nellur Branch, he received a sum of Rs.9,000/- from one Ponathal for the purpose of opening one time deposit account, However, it is alleged that, he did not bring the said amount into the postal account and misappropriated the same for his personal gain, thereby a charge memo came to be issued, which ended in dismissal from service.

7. It is equally not disputed that, the subsequent appeal, revision filed by the petitioner also ended in dismissal and though the petitioner approached the Central Administrative Tribunal by filing O.A.No.791 of 2008, he subsequently withdrawn the same and the tribunal, after conducting elaborate trial, had also, held the dispute against the petitioner. As rightly pointed out by the learned Central Government Standing



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Counsel, when all the fact finding authorities, including the tribunal, concurrently held against the petitioner confirming the order of dismissal passed by the 2nd respondent, this Court, sitting under Article 226 of the Constitution would not be justified in giving any contra finding unless perversity in the orders passed by the fact finding authorities is brought to the notice of this Court. Merely because the petitioner is not happy with the finding recorded, that would not be a ground for this Court to substitute its view to that of the fact finding authorities in the absence of any substantive materials, which have been placed before this Court.

8. For the reasons aforesaid, this Court is not inclined to interfere with the order under challenge and, accordingly, this Writ petition stands dismissed. No costs.

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skt

Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No

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WEB COPY To

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M.DHANDAPANI., J.

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