



W.P.No.18690 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2023

CORAM:

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

W.P.No.18690 of 2016

P.Arumugam

...Petitioner

Vs.

1. The Superintendent of Post Offices,
Ramanathapuram Division,
Ramanathapuram – 623 501.
2. The Presiding Officer,
Central Government Industrial Tribunal-
cum-Labour Court,
Chennai – 600 006

...Respondents

Petition filed 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 2nd respondent-Tribunal, which is made in I.D.No.31 of 2011 dated 30.12.2014, quash the same and consequently direct the 1st respondent to reinstate the petitioner into service with all consequential benefits.

For Petitioner : Mr.R.Malaichamy

For Respondents : Mrs.ME.Saraswathy, SPC



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ORDER

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This Writ petition has been filed seeking quashment of the order of the 2nd respondent dated 30.12.2014 made in I.D.No.31 of 2011 and to consequently, direct the 1st respondent to reinstate the petitioner into service with all consequential benefits.

2. The case of the petitioner is that, he was appointed as Gramin Dak Sevak Branch Postmaster at Kumbaram Branch Post Office in the year 1991 and was discharging his duties without any default. While so, for the alleged misappropriation of money, the Sub-Divisional Inspector (Posts), Velipattinam placed the petitioner under suspension with effect from 19.12.2001 and subsequently, a charge memo dated 10.10.2005 came to be issued nearly after four years from the date of alleged incident, and the petitioner was subsequently dismissed from service by order dated 17.11.2006. As against the said dismissal order, the petitioner filed an appeal dated 29.12.2006, however, the same was rejected by order dated 20.8.2008. In such circumstances, subsequent to the failure of the conciliation proceedings, the petitioner raised a dispute before the 2nd



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respondent in I.D.No.31 of 2011, which was also dismissed by the present impugned order. Challenging the same, the petitioner is before this Court.

3. Learned counsel for the petitioner submitted that, initially, for the reasons best known, the petitioner was put off duty for more than two years with effect from 19.12.2001 by the Sub-Divisional Inspector (Posts), Velipattinam and it had not yet been ratified by the 1st respondent as per the relevant Rules. Though, departmental proceedings were initiated as against the petitioner for certain misconducts, the 1st respondent had not conducted any inquiry and only at the instance of the petitioner and pursuant to the order of the Central Administrative Tribunal (in short 'CAT'), Chennai dated 05.7.2006 made in O.A.No.937 of 2005, the inquiry was conducted, however, the same was conducted in total violation of the principles of natural justice and without providing reasonable opportunity to the petitioner to defend his case by summoning one Mrs.Kanagammal, with whom the alleged misappropriation is said to have taken place and ultimately, the charges levelled against the petitioner were held to have been proved. Though the petitioner gave a reply dated 04.11.2006 to the 1st



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respondent as against the inquiry report dated 11.10.2006, the 1st respondent dismissed him from service by order dated 17.11.2006. Further, the petitioner was not allowed to examine the said Kanagammal and was not provided with or allowed to peruse the vital documents. Aggrieved by the said dismissal order, the petitioner filed an appeal dated 29.12.2006 before the Appellate Authority, for which, he did not receive any reply and once again only at the instance of the petitioner and pursuant to the order dated 08.05.2008 passed in O.A.No.672 of 2007 by the CAT, the Appellate Authority rejected the appeal filed by the petitioner, vide order dated 20.8.2008. The application in O.A.No.811 of 2008 filed by him challenging the order of removal from service was withdrawn by him on 16.11.2009 with liberty to pursue the remedy before the 2nd respondent. There was no specific complaint against the petitioner. Subsequently, the conciliation proceedings were initiated at the instance of the petitioner, which ended in failure. Only thereafter, the petitioner approached the 2nd respondent by filing I.D.No.31 of 2011, which was dismissed by the impugned order on the ground that, the petitioner was holding a position, which required utmost faith, that being the Branch Postmaster, he was expected to deal with the



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financial transactions carefully, that the petitioner had been targeting the old illiterate women for his misdeeds and that therefore, the stand of the 1st respondent that had justification to dismiss the petitioner from service, is wholly unsustainable and the same deserves interference of this Court and accordingly, he prayed for appropriate orders.

4. Learned counsel for the 1st respondent submitted that, the petitioner herein was appointed as Gramin Dak Sevaks Branch Postmaster, Kumbaram Branch office with effect from 18.06.1991. While so, since the petitioner committed frauds in SB accounts and Money order payment to the tune of Rs.10,000/- and pursuant to the complaint dated 12.12.2001 emanated from one Senthilraja, Mail deliver, when the Inspector of Posts, Ramanathapuram visited the Kumbaram Post, one foil portion of pay in slip dated 09.11.2000 for a deposit of Rs.1,000/- made by one Sethumuthu was found inside the personal diary of the petitioner and when the same was questioned by the Inspector of Posts, the petitioner in his statement dated 19.12.2001, deposed that, he received the said amount from Sethumuthu for opening a new SB Account, however, did not open the same and



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subsequently, returned Rs.500/- to the depositor on later date, but, the petitioner neither repaid the balance amount of Rs.500/- to the depositor nor credited the same into Post office accounts. When he himself admitted the same, for the said misconduct of misappropriation of funds, he was placed under off duty, vide order dated 19.12.2001, which was already confirmed by the 1st respondent vide order dated 21.12.2001 as per the relevant Rules. After issuance of the charge memo dated 10.10.2005, only when the inquiry was in progress, the petitioner filed O.A.No.937 of 2005 on the file of the CAT, Chennai seeking to set aside the order dated 19.12.2001 placing the petitioner under suspension and to direct the respondents therein to reinstate him into service with all service benefits and back wages and it was disposed of by order dated 05.7.2006 with directions.

5. Further, the said Kanagammal was produced as a State witness and the petitioner was given a chance to cross examine her. When the petitioner requested the Inquiry Officer to summon her as a defence witness, it was turned down, which is in order. On a careful consideration of all the relevant documents, the charges were held to have been proved and the dismissal



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order came to be passed. It is relevant to state that, challenging the dismissal order dated 17.11.2006, the petitioner filed both the appeal before the Appellate Authority as well as O.A.No.672 of 2007 before the CAT and the said Appeal also ended in dismissal on 20.08.2008. The fraud committed by the petitioner came to light only during the verification of records by the Inspector of Posts, Ramanathapuram Sub-Division and after the GDS Mail Deliverer of Kumbaram Branch Office chose to file a complaint to the Inspector of Posts, Ramanathapuram Sub-Division regarding the irregularities committed by the petitioner in money order payments. The petitioner misused his official capacity and suppressed the deposits tendered by poor illiterate people. He tarnished the image of the Department before the general public and the State Authorities. The 2nd respondent, after taking into consideration all the above said facts, had rightly dismissed the dispute raised by the petitioner, vide present impugned award, confirming the punishment of dismissal imposed by the 1st respondent, which does not warrants any interference of this Court. Hence, he prayed for dismissal of this Writ petition.



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6. Heard the learned counsel for the petitioner and the learned Senior Panel Counsel appearing for the respondents and perused the material documents placed on record.

7. For alleged financial irregularities committed by the petitioner, the petitioner was initially suspended from service and was subsequently dismissed. Challenging the said order of dismissal, the petitioner filed an Appeal before the Appellate Authority and the same was also dismissed, upholding the punishment of dismissal imposed by the 1st respondent. Further, as rightly pointed by the learned Senior Panel Counsel, the petitioner himself, vide his statement dated 19.12.2001 given before the Inspector of Posts admitted that, he received a sum of Rs.1,000/- from Sethumuthu for opening a new SB Account, however, did not open a new SB Account, and subsequently, returned Rs.500/- to the depositor on later date, however, he did not disclose whether the balance amount of Rs.500/- was returned either to the depositor or credited the same into Post office accounts. Thereby, departmental proceedings were initiated against the petitioner, which ended in dismissal. Further, the application in O.A.No.811



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of 2008 filed by the petitioner before the CAT, Chennai was also withdrawn by the petitioner for reasons best known to him. Subsequent to which, the petitioner raised conciliation proceedings, and as the same ended in failure, the dispute was referred for adjudication to the 2nd respondent, who in turn passed the present impugned order, confirming the order of dismissal.

8. It is equally not disputed that, the subsequent appeal filed by the petitioner also ended in dismissal and though the petitioner approached the Central Administrative Tribunal by filing O.A.No.811 of 2008, he subsequently withdrew the same and the tribunal, after conducting elaborate trial concurred with the findings arrived at by the authorities. As rightly pointed out by the learned Senior Panel Counsel, when all the fact finding authorities including the tribunal, concurrently held against the petitioner confirming the order of dismissal passed by the 1st 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



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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.

9. 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.

04.07.2023

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

To

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Ramanathapuram – 623 501.
2. The Presiding Officer,
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