



W.P.No.9488 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Orders Reserved on : 21..07..2023

Orders Pronounced on : 01..08..2023

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.9488 of 2022

K.Pattappasamy

..... Petitioner

-Versus-

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Home (Transport-II), Department,
Fort St. George, Chennai 600 009.
- 2.The Principal Secretary to Government,
Home (Transport-II) Department,
Fort St. George, Chennai 600 009.
- 3.The Additional Chief Secretary to Government,
Home (Transport-II) Department,
Fort St. George, Chennai 600 009.
- 4.The Transport Commissioner,
Ezhilagam,
Chepauk, Chennai 600 005.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to
issue a Writ of Certiorarified Mandamus calling for the records pertaining to the



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order of the 2nd respondent dated 10.02.2017 in G.O.(D) No. 167 and that of the order of the 3rd respondent dated 11.11.2021 in G.O.(D) No.1324 and quash the same and consequently direct the respondents to restore all service and monetary benefits to the petitioner.

For Petitioner : *Mr.K.Venkataramani,*
Senior Counsel for
Mr.A.Mohammed Ismail

For Respondents : *Mr.V.Jeevagiridharan,*
Addl. Government Pleader
for RR1 to 4

ORDER

Challenging the punishment of stoppage of increment for a period of four years with cumulative effect imposed by the 2nd respondent by order in G.O.(D) No.167, Home (Transport-II) Department, dated 10.02.2017 as confirmed by the 3rd respondent in G.O.(D) No.1324, Home (Transport-II) Department, dated 17.11.2021, the petitioner, formerly Regional Transport Officer, Tambaram, has come forward with the present writ petition.

2. The petitioner joined the services of the Transport Department as a Motor Vehicle Inspector Grade-II on 24.02.1995. He was later on promoted as Motor Vehicle Inspector Grade-I on 09.06.1998 and as Regional Transport Officer (RTO) on 09.06.2009. He was posted at Tambaram. During the month



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of July 2012, he was given additional charge as RTO, Meenambakkam.

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3. While so, on 25.07.2012, an unfortunate road accident took away the life of a six year old school going girl child. That incident has led to criminal as well as departmental action. It was one P.Rajasekaran, the then Motor Vehicle Inspector Gr.I, who inspected the school bus and certified the fitness on 09.07.2012. The allegation against the petitioner is that he failed to supervise the work of the said Motor Vehicle Inspector Gr.I. and his failure to inspect and over check the work of the said P.Rajasekaran, the then MV Inspector Grade I, led to the loss of the school going child. He was placed under suspension and was issued with a charge memo dated 08.08.2012. The petitioner was charged on the ground that he has failed to over check the issuance of fitness certificate renewed by the Motor Vehicle Inspector Grade-I as per G.O.Ms.No.1889, Home (Tr.II) Department, dated 02.08.1985. The charge as framed by the disciplinary authority reads as under:-

“On verification of the records it was found that the fitness certificate of the vehicle bearing Registration No. TN 23 S 9952 was



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renewed on 09.07.2012 by Thiru.P.Rajasekaran, Motor Vehicle Inspector Grade-I, Office of the Regional Transport Officer, Tambaram, has failed to over check the issuance of fitness certificate renewed by the Motor Vehicle Inspector Grade-I, as per G.O.Ms.No.1889, Home (Tr.II) Department, dated 02.08.1985. His failure to inspect the work of Motor Vehicle Inspector Grade-I led to loss of life of a six year old child (student) leading to lot of suffering for the parents and a sense of gloom among the school students.

Thus, he had failed to maintain the absolute integrity and devotion to duty and violation Rule 20 of the Tamil Nadu Government Servant Conduct Rules,1937.”



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4. The petitioner gave a detailed explanation dated 03.09.2012 to the above charge. Not being satisfied with the explanation offered by him, the department decided to proceed with further against the petitioner and the Joint Commissioner (Enforcement), Srirangam, was appointed as enquiry officer. The enquiry officer went into the charges and held that the charges were proved against the petitioner. The petitioner made a further representation on 17.02.2016. Upon considering the enquiry report and the further explanation of the petitioner, the 2nd respondent by order dated 10.02.2017 imposed a punishment of stoppage of increment for a period of four years with cumulative effect. Aggrieved by the same, the petitioner preferred a review petition before the 3rd respondent which also came to be dismissed by order dated 10.02.2017 confirming the order of punishment imposed by the 1st respondent. In the above circumstances, the petitioner has come up with the present writ petition.

5. The 4th respondent – Transport Commissioner, Chepauk, Chennai, filed a detailed counter inter alia contending that the petitioner was not in the habit of maintaining his diary in a detailed manner, indicating the registration number and other details of vehicles which were over checked by him and he



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had maintained the diary with details of vehicles over checked by him only for the month of July 2012, the month in which the accident took place. No plausible explanation was put forth by the petitioner as to why he did not maintain his diary with all such details for previous months from 16.02.2012 to 30.06.2012. Even though the petitioner claimed to have achieved 10.28% as against the target of 10.00% fixed for over checking the issuance of fitness certificates for the whole month, it was found that on 09.07.2012, he had over checked only one school bus bearing Regn. No.TN 25 X 7475. The petitioner did not have any explanation much less any valid reason to offer as to why he did not over check the school bus in question. The object behind the fixation of norms for the performance of the official duties by the Regional Transport Officers is to ensure that the social needs of the public are met and the provisions of the Motor Vehicles Act and Rules made thereunder are strictly enforced. The petitioner had not strictly followed the directions issued in G.O.Ms.No.1889, Home (Tr.II) Department, dated 02.08.1985.

6. Heard Mr.K.Venkataramani, learned senior counsel appeared on behalf Mr.A.Mohammed Ismail, counsel on record for the petitioner and Mr.V.Jeevagiridharan, learned Additional Government Pleader, appeared on



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behalf of the respondents 1 to 4.

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7. Mr.K.Venkataramani, would submit that though G.O.Ms.No.1889 dated 02.08.1985 stipulated over checking of ten vehicles, the petitioner had achieved 10.28% which was over and above the target fixed by the government. Despite the same, the inquiry officer had proceeded with the inquiry in a different angle that the petitioner was not maintaining the diary properly and the records showed that he had maintained the diary with details of vehicle which he over checked only from the month of July, 2012 in which the accident took place and held that the charge had been proved. According to the learned senior counsel, such an inference was drawn by the inquiry officer without any piece of reliable evidence.

8. Mr.K.Venkataramani would state that the charge memo was issued on the general directions issued by this court in a suo motu writ petition in W.P.No.20272 of 2012 dated 27.07.2012 directing the Government to initiate departmental proceedings against the erred officials. It was the work of the Motor Vehicle Inspector Grade-I to inspect the vehicles and issue fitness certificate and the school bus in question was inspected by the Motor Vehicle



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Inspector Grade-I and as the Regional Transport Officer, the petitioner had over checked the issuance of fitness certificate in random and for the relevant period, he had over checked the issuance of fitness certificate as per the Government Order and had achieved 0.28% over and above the target of the target of 10.00% fixed in the Government Order. However, the petitioner has been made a scape goat in order to satisfy this court. The inquiry officer had failed to consider the explanation offered by the petitioner and on the other hand taken into consideration the irrelevant material to record his finding against the petitioner. The reviewing authority also did not consider the matter in a proper perspective and has simply concurred with the disciplinary authority. There is no reason whatsoever assigned by the reviewing authority while dismissing the review petition. Therefore, according to the learned senior counsel, the impugned order of punishment is liable to be set aside.

9. Mr.V.Jeevagiridharan, learned Additional Government Advocate would on the other hand contend that the school bus bearing Regn. No. TN 23 S 9952 which was inspected on 09.07.2012 and a fitness certificate was issued by the Motor Vehicle Inspector Grade-I had involved in a road accident on 25.07.2012 and in that unfortunate road accident, a six year old school going



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girl child was run over by the rear wheels of the same bus after she had fallen down from inside the school bus through a hole in the platform. This court took a suo motu writ proceeding and directed the government to take disciplinary action against the erring officials. Accordingly, the 2nd respondent initiated disciplinary proceedings and on the basis of the inquiry report, the petitioner was slapped with the punishment of stoppage of increment for four years with cumulative effect. The reviewing authority also considering the charges and the evidences concluded that the review petition filed by the petitioner was liable to be rejected. No perversity or illegality could be attached to order of punishment passed by the disciplinary authority as confirmed by the review authority. Therefore, the learned Additional Government Pleader prays for dismissal of the writ petition.

10. I have considered the rival submissions and also perused the records carefully.

11. The only charge against the petitioner is that he failed to supervise the work of the said Motor Vehicle Inspector Gr.I. and his failure to inspect and over check the work of the said P.Rajasekaran, the then MV Inspector Grade I,



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led to the loss of the school going child.

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12. Admittedly the fitness certificate for the school bus in question was not given by the petitioner and it was given by the Motor Vehicle Inspector Grade-I on 09.07.2012. The petitioner was the Regional Transport Officer at the relevant point of time. The accident had occurred on 25.07.2012. It is also not in dispute that the petitioner was also looking after additional charge of RTO at Meenambakkam and he used to look after the work in the RTO at Tambaram in the morning hours and RTO at Meenambakkam in the evening hours. The basis for the charge is G.O.Ms.No.1889, Home (Tr.II) Department, dated 02.08.1985. The petitioner contended that the charge was very vague as it did not specifically state which provision of the Government Order the petitioner had violated.

13. It is relevant to extract hereunder the entire G.O.Ms.No.1889, Home (Tr.II) Department, dated 02.08.1985 for ready reference:-



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Copy of:

GOVERNMENT OF TAMILNADU

ABSTRACT

Transport Department- Fixing and monitoring Corporate objectives and targets-Instructions-Issued

HOME (TRANSPORT-II) DEPARTMENT

G.O.Ms. No. 1889
2.8.1985

Dated:

Kurothana Aadi 18,
Thiruvalluvar Aandu

2016

- 1) From the Chief Secretary to Government D.O. Lr. No. 6339/SP/P&D/85 dt. 8.4.85
- 2) From the Transport Commissioner, D.O. Lr. No. 42916 D3/85, dt. 25.7.85

ORDER:

Recalling the attention to the discussion during the Secretaries Committee Meeting held on 1.4.85 on the above subject, the chief secretary has observed that normally, the activities of a department tend to get reduced to spending some amount before the financial year that too, with certain amount of rush in the last few weeks. Several Departments have dozen and scores of schemes being implemented but often without a well defined objective. In this context, the Chief Secretary has suggested in the above meeting that it is necessary to define major objectives, fix targets for each department and evolve about 10 indices or indicators for the same so that these major objectives will be on focus throughout, while implementing the individual schemes and reaching certain targets. Further, the Chief Secretary has observed that this among other things requires a considerable discipline in thinking and also necessitates close continuous and tight monitoring and that the scarce resources are out to optimal use while



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implementing the schemes. This is more important for the seventh plan period during which a pace has to be kept with shortage of resources and to produce the maximum results in reaching the appropriate target groups in the economy and also the right type of beneficiaries. To a certain extent, this is already being done in achieving the targets of Twenty point programme and in quarterly plan review. He is, therefore of the view that it would better to go further with monthly monitoring at Government level, so that this will set chain reaction all over, with weekly and, at time, even daily targets being fixed and monitored for the field level officers and the staff. As already mentioned in one of the meetings, the Chief Secretary has requested to start working on the above within two weeks time, and to suggest the appropriate set of targets and indicators by which working of each Head department reporting to the department in the secretariate can be monitored.

2. In pursuance of the views of the Chief Secretary to Government referred to in para above, the Government have examined the feasibility of fixing targets in respect of the activities relating to the Transport Department in consultation with the Transport Commissioner, Madras. The Transport Department has no plan schemes to be implemented. Nevertheless, it is a revenue earning department, since Motor Vehicle Tax forms a sizeable revenue to the Government. It is also a Service oriented department where the officials and the staff have to be responsive to the social needs of the public. Keeping these objectives in view, the Government has decided to fix specific monthly targets for the officers of the Transport Department as detailed below.

Deputy Transport Commissioner-Cum-Regional Transport Authority.

1. Regional Transport Authority's Hearings to be conducted (at least once in a month) for each district.
2. Review of Demand Collection and Balance of Taxes in respect of officers in the Zone (Review must be purposeful and effective with reasons for arrears analysed thoroughly. A copy of review indicating the Demand Collection and Balance for every month should



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be sent so as to reach office of the Transport Commissioner and before 10th of the succeeding MONTH.

3. Review of Receipt- Expenditure-Reconciliation thereof
4. Conduct of Mass check once in the fortnight of the number of.

5. Inspection of Regional Transport offices in the Zone.
Cursory Inspection | Detailed Inspection
One Regional One Unit | Annual inspection of all
Transport Office | Regional Transport offices
Office every month | Unit offices

6. Supervision of Audit Reports:

At least 25% of the pending and paras of the Accountant General and Internal Audit should be completed.

7. Tour:

Maximum 10 days in a month.

8. Regional Transport officers:

1. Conduct of Timing conferences to stage carriages should complete 50% of the pending cases.

2. Atleast of minimum of 10 days tour should be undertaken.

3. Number of bus stands.

10% of the total bus stands in the jurisdiction should be inspected.

4. Number of driving schools.

10% of the total driving schools should be inspected.

5. Over checking of, off-the the road vehicles in the officers:

10% should be over checked.

6. Over checking of Fitness Certificate vehicles in the officers:

10% should be over checked.

7. Over checking of Heavy Motor Vehicle Test:

10% should be over checked.

8. Inspection of Unit offices:

Cursory Inspection once in a month.

Annual inspection once in a year.

9. Mass check:

Once in a fortnight (Details of cases detected or various Offences should be sent to the Deputy Transport Commissioner in the proforma already in existence)

10. Audit Paragraphs:

At least 25% of the pending audit paragraphs of Accountant and General and Internal Audit should be completed.



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The responsibility in achieving the target of 100% collection of arrears of tax rests with the Regional Transport Officers

C) Assistant Engineer (Motor Vehicles)

1. 20 days tour with 5 night halts
2. Over checking of vehicles on the road;

Total No. of vehicles to be checked: 500.

D) Motor Vehicles Inspectors Grade I and Grade II

1. Tour At least a minimum of 10 days in a month.
2. Total number of vehicles to be checked: 200.
3. Inspection of Driving schools: 25%
4. Inspection of Bus stands: 20%
5. Should also concentrate on detecting and checking the following offences:
 - a. Excessive smoke;
 - b. Overspeed;
 - c. Over load in goods vehicle;
 - d. Late payment of tax,
 - e. Non- Payment of tax,
 - f. Under payment of tax;
 - g. Driving without driving license;
 - h. Vehicle without fitness certificate.
 - i. Vehicle without permit;
 - j. Driving without proper authorisation to drive the vehicle.
 - k. Without rear reflector
 - l. Without danger light.
 - m. Violation of Carrying goods at excess weight.
 - n. Violation of Carrying goods of excessive rear overhang
 - o. Violation of Carrying goods offside overhang.
 - p. Overload in cabin in Goods vehicles;
 - q. Overload of passengers in Tourist taxi.
 - r. Issue of C.F.X Notices;
 - s. Detection of illicit taxis;



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6. Verification of Physical verification Report and collection of arrears: 100%

Note: Immediately on expiry of the grace period of the payment of tax, the list of vehicles for which the tax has not been paid should be drawn up. The Motor Vehicles Inspector should verify and issue physical verification Report in case of vehicles which are off the road. In respect of vehicles tax has not been paid, immediate action should be taken to recover the arrears by issue of demand notices contacting the Tahsildars for recovery under revenue Recovery Act or for obtaining specific reports from the other Regional Transport officers.

P. Qlty checking Squad

1. No. of Auto rickshaws to be checked: 500
2. Should also concentrate on detecting and checking the following offences;
 - a. Fare meter tampering;
 - b. Without Fitness Certificates;
 - c. Without permit;
 - d. Overload by Passenger;
 - e. Demanding excess fare;
 - f. Used as goods vehicle;
 - g. Driving without driving licence;
 - h. Driving without Uniform;
 - i. Omission of Excess smoke;
 - j. Non-fitment of reflector;
 - k. Non-fitment of danger light.
 - l. Non-exhibition of taxation licence;
 - m. Non-Payment of tax.



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n. Issue of C.F.X Notices

o. Non-Availability of trip sheet.

3. The Transport Commissioner is requested to review the performance of the district level officials critically and to submit a report of his critical review to the Government regarding the achievements of the targets fixed for the officers of the Transport Department on or before 15th every month commencing from August 1985. The first report should be sent to Government on or before 16th August 1985. The Transport Commissioner is requested to send his review report to the Government in the Home Department to the Special Commissioner, P & AR and Chairman of the Monitoring Committee and Commissioner and Secretary, Planning and Development Department, Madras.

4. The Government will take up a quarterly review of the performance of the Transport Department on the basis of the targets fixed in paragraphs 2 above.

(By order of the Governor)

Sd/-T.V. Venkataraman,

Spl. Commissioner & Secretary to Govt.

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வட்டாரப்போக்குவரத்து அலுவலர் அலுவலகம்: திருநெல்வேலி:

மேற்குறிப்பு எண்: 46124/அ2/85

நாள்: 4.8.85.

போக்குவரத்து ஆணையாளர் அனுப்பி உள்ள நேர்முக கடிதத்துடன் இணைக்கப்பட்டுள்ள அரசு ஆணையின் நகல் இத்துடன் இணைக்கப்படுகிறது.

(ஓம்) அ.ஆண்டி,

வட்டாரப்போக்குவரத்து அலுவலர்,
திருநெல்வேலி



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14. Thus, Clause 6, under the heading “B. Regional Transport Officers”, of the above said Government Order makes it very clear that the Deputy Transport Commissioners cum Regional Transport Authorities among other work allocated to them should over check 10% of the fitness certificates issued to the vehicles. Since the school bus in question involved in a road accident and in that unfortunate road accident, a six year old school going girl child was run over by the rear wheels of the same bus after she had fallen down from inside the school bus through a hole in the platform. The issue attracted wide public and media attention and this court had, in fact, initiated a *suo motu* writ petition and directed the Government to take appropriate action against the erred officials. Thereafter, disciplinary proceeding was initiated and in the enquiry, the petitioner was found to have violated G.O.Ms.1889 dated 02.08.1985 and ultimately he was slapped with the punishment of stoppage of increment for four years with cumulative effect. As already discussed above, the responsibility of Regional Transport Officers is to over check 10% of the fitness certificates issued by the Motor Vehicle Inspector Grade-I. The enquiry officer on the basis of evidence of P.W.8 and Ex.P2 concluded that (i) the petitioner was not in the habit of writing his diary in a detailed manner indicating the registration number and the other details of the vehicles he over checked; (ii)



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only for the month of July 2012, he entered all those details in the diary and (iii) even though the petitioner claimed to have over checked 77 out of 747 vehicles and achieved the target of 10.28% for the whole month, on 09.07.2012 he had over checked only one vehicle and not over checked the school bus in question and had he acted as a prudent officer in discharging his official duties carefully to avoid undesired consequences and given due consideration to the lives of the school students , he could have over checked that particular school bus. According to the enquiry officer, the petitioner did not offer any explanation for the same.

15. The specific allegation against the petitioner was that he had failed to over check the issuance of fitness certificate renewed by the Motor Vehicle Inspector Grade-I as per G.O.Ms.No.1889 dated 02.08.1985 and his failure to inspect the work of Motor Vehicle Inspector Grade-I led to loss of life of a six year old child. Whereas the enquiry officer has arrived at a finding based on irrelevant materials and when the charge itself was not with regard to maintenance of diary. It is the specific case of the petitioner that he was given additional charge of RTO at Meenambakkam at the relevant point of time and he used to look after the work in the RTO at Tambaram in the morning hours



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and RTO at Meenambakkam in the evening hours. The diary maintained by the

petitioner was verified by the higher officials of the petitioner on 30.07.2022

and the same got approval from the Zonal Office as well. This was not at all

considered by the enquiry officer. The charge is general and not specific. The

GO also stipulates over checking only at random. The petitioner had,

admittedly, achieved the target. That work of the petitioner had also received

approval from his higher ups. It is not also the case of the respondents that the

petitioner had failed to achieve the target. When that be so, how the

disciplinary authority could expect that the petitioner could have over checked

the particular vehicle which involved in the accident. In such view of the matter,

the finding recorded by the enquiry officer was not on any evidence and such a

finding was arrived at by him only on irrelevant materials. Further, there was no

charge with regard to failure of the delinquent officer in maintaining the diary

properly for every month. Having found that the delinquent officer had

maintained the diary only for the month in which the tragic incident took

place, with particulars of vehicles in respect of which fitnesses certificates were

renewed by the Motor Vehicle Inspector concerned and he was not in the habit

of maintaining the diary with particulars of vehicles which he had over

checked, the enquiry officer had proceeded to hold the delinquent officer guilty



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of the lone charge which is, in fact, beyond the charge.

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16. Further, one of the explanations offered by the petitioner that he was given additional charge of RTO at Meenambakkam at the relevant point of time and he used to look after his regular work in RTO at Tambaram in the morning hours and look after his additional charge in RTO at Meenambakkam in the evening hours was not at all considered by the enquiry officer as mandated under Rule 17(b) of The Tamil Nadu Civil Service (Discipline and Appeal) Rules. This is a material flaw in the findings arrived at by the enquiry officer to hold the petitioner guilty of the charge.

17. No doubt, the writ courts should be slow in re appreciating the evidence in the disciplinary proceedings. However, when the finding was recorded on the basis of irrelevant materials and not on materials on the basis of which the charge was framed, the court can very well interfere with the departmental proceedings.

18. In **Union of India v. P.Gunasekaran (2015) 2 SCC 610**, the Honourable Supreme Court has held as under:-



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“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

(a) the enquiry is held by a competent authority;

(b) the enquiry is held according to the procedure prescribed in that behalf;

(c) there is violation of the principles of natural justice in conducting the proceedings;

(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;

(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;



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(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;

(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

(i) the finding of fact is based on no evidence.

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

(i) reappreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based.

(vi) correct the error of fact however



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grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.”

19. In *Union of India v. Ex. Constable Ram Karan*, (2022) 1 SCC

373, the Supreme Court has held as under:-

“24. Even in cases where the punishment imposed by the disciplinary authority is found to be shocking to the conscience of the court, normally the disciplinary authority or the appellate authority should be directed to reconsider the question of imposition of penalty. The scope of judicial review on the quantum of punishment is available but with a limited scope. It is only when the penalty imposed appears to be shockingly disproportionate to the nature of misconduct that the courts would frown upon. Even in such a case, after setting aside the penalty order, it is to be left to the disciplinary/appellate authority to take a call and it is not for the court to substitute its decision by prescribing the quantum of punishment. However, it is only in rare and exceptional cases where the court might to shorten the litigation may think of substituting its own view as to the quantum of punishment in place of punishment awarded by the competent authority that too after assigning cogent reasons.”



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20. In **Union of India v. Subrata Nath, 2022 LiveLaw (SC) 998**, the Supreme Court, while approving the law laid down by the two-judges of the Supreme Court in P.Gunasekaran's case (supra) in para 22 has held as under:-

“22. To sum up the legal position, being fact finding authorities, both the Disciplinary Authority and the Appellate Authority are vested with the exclusive power to examine the evidence forming part of the inquiry report. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct. However, in exercise of powers of judicial review, the High Court or for that matter, the Tribunal cannot ordinarily reappreciate the evidence to arrive at its own conclusion in respect of the penalty imposed unless and until the punishment imposed is so disproportionate to the offence that it would shock the conscience of the High Court/Tribunal or is found to be flawed for other reasons, as enumerated in P. Gunasekaran (supra). If the punishment imposed on the delinquent employee is such that shocks the conscience of the High Court or the Tribunal, then the Disciplinary/Appellate Authority may be called upon to reconsider the penalty imposed. Only in exceptional circumstances, which need to be mentioned, should the High Court/Tribunal decide to impose appropriate punishment by itself, on offering cogent reasons therefor.”



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directed to restore all service and monetary benefits to the petitioner. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs.

01..08..2023

Index : yes / no
Neutral Citation : yes / no
kmk



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To

1. The Secretary, Home (Transport-II), Department, Fort St. George, Chennai-9.
2. The Principal Secretary to Government, Home (Transport-II) Department, Fort St. George, Chennai 600 009.
3. The Additional Chief Secretary to Government, Home (Transport-II) Department, Fort St. George, Chennai 600 009.
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