



W.A.No.1571 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**

AND

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

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and CMP No. 19651 of 2016

1. The Secretary to the Government,
Government of Tamilnadu,
Labour and Employment Department,
Fort St. George, Chennai 600 009.
2. The Director of Employment and Training,
Chepauk, Chennai 600 005.
(Now present address Guindy, Chennai -32)
3. The Principal,
Government Industrial Training Institute,
Chengalpattu,
Kancheepuram District.
4. The Principal,
Government Industrial Training Institute,
Ariyalur, Perambalur District.

...Appellants/Respondents

Vs.

V.G.Ravichandran

... Respondent/Petitioner



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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 04.04.2013 passed in W.P. No.8870 of 2006 and to set aside the same.

For Appellants : Mr. L.S.M. Hasan Fizal
Additional Government Pleader

For Respondent : Mr. K.Srinivasamurthy
for M/s.Row & Reddy

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

This Intra Court Appeal is at the instance of the Government challenging the order of the Writ Court allowing the Writ Petition filed by the respondent seeking a Writ of Certiorari to quash the punishment of compulsory retirement imposed on him under G.O.(D) No.129 dated 27.02.2006.



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2. The respondent was working as a Store-Keeper in an Industrial

Training Institute was visited with the charge memo containing 15 charges.

An enquiry was conducted by the Enquiry Officer who returned a finding that all the charges except charge No.9 stood proved. He however, added that no financial loss has been caused to the Government because of the conduct of the respondent. The Disciplinary Authority accepted the findings of the Enquiry Officer and imposed a major penalty of compulsory retirement on the petitioner. The necessary approval from the TNPSC was also obtained. Aggrieved the petitioner approached this Court in WP No.8870 of 2006.

3. Before the Writ Court, the respondent had contended that most of the charges were beyond the scope of work assigned to him. It was also pointed out that the Junior Assistant who had deposed that the respondent directed her to correct the relevant tenders was examined in the absence of the respondent and he had no opportunity to cross-examine the witness.



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4. On behalf of the Government it was contended that the respondent was part of a larger scheme evolved by the persons working in the Industrial Training Institutes to procure unwanted materials and materials at higher costs. The Writ Court, however, rejected the contention of the Government and found that the petitioner cannot be termed as guilty of all the charges. The Writ Court found that many of the accusations made against the petitioner were actually beyond the scope of his work. The Writ Court also took into account the observation of the Enquiry Officer to the effect that there has been no financial loss to the Government by the actions of the respondent.

5. Considering the totality of the circumstances, the Writ Court concluded that the punishment of compulsory retirement is shockingly disproportionate to the proved delinquency. Therefore, the Writ Court set aside the punishment and directed reinstatement with continuity of service and all other benefits including pension. The Writ Court however denied back wages and required the respondent to approach the Authorities for back wages. The Government is on Appeal.



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6. We have heard Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader appearing for the appellants and Mr.K.Srinivasamurthy, learned counsel appearing for M/s. Row & Reddy, for the respondent.

7. The learned Additional Government Pleader would vehemently contend that the Writ Court had overlooked the fact that the petitioner was the part of the larger conspiracy to cause financial loss to the Government and therefore, the punishment of compulsory retirement was commensurate with the proved delinquencies. He would also point out that the petitioner had not sought for any opportunity to cross examine the Junior Assistant. He would further point out that the other delinquents, viz. the two principals who were also charge sheeted along with the petitioner were also punished with compulsory retirement and cut in pension since one of them had retired.



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8. Mr.K.Srinivasamurthy, learned counsel appearing for the respondent would however submit that once it is found that most of the charges were beyond the scope of the work assigned to the respondent, he cannot be held liable for commissions and omissions of other persons. He would also contend that he was a Store-Keeper and he was only concerned with collating the materials and placing it before the principals who have the authority. He would also point out that the respondent cannot independently decide on the cost and place orders for purchase or otherwise.

9. We have considered the rival submissions.

10. The Writ Court had set out the scope of work of the respondent and it reads as follows:

- a) Obtaining requisition letter from the concerned Junior Training Officer/Assistant Training Officer for procuring materials required by them;*
- b) He has to verify with the Stock Register whether the materials required are available in stores;*
- c) If not, he has to call for quotation from the Government approved firms;*



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- d) He has to prepare comparative statement of the firms who have quoted;*
- e) After getting approval of the Principal, purchase orders have to be placed with the firms who have quoted less;*
- f) To get the certificate of the concerned Junior Training Officer/Assistant Training Officer/Training Officer to the effect that the goods received is in good condition and according to the specifications;*
- g) To enter the goods received details in goods receivable book and get the authentication of the higher-ups;*
- h) Issue of goods/materials to the sections under proper indent;*
- i) To pass the bills of the firms subject to the availability of funds.*

The charges against the respondent are as follows:

- a) Purchases worth Rs.1,11,196/- were procured from unapproved firms;*
- b) Without proper requisition from the concerned Junior Training Officers/Assistant Training Officer, stores were procured;*
- c) Purchase files were dealt by the Store-keeper and principal without passing through office Manager/Administrative Officer;*
- d) Tampering of office records;*



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- e) Official procedure violated in passing Bills;*
- f) Procurement of Table cloth and emergency lamps against provision;*
- g) Double payment for single purchase by raising bogus bills;*
- h) Seizure of blank letter pads of suppliers from Store-keeper by Special Audit Team:*
- i) Opening of tender documents ahead of scheduled date;*
- j) Without proper approval of the principal, Store-keeper has sent quotation requisition letter to suppliers in person;*
- k) Improper admissibility of lorry freights.*

11. A reading of the scope of work and charges levelled against the respondent would show that the finding of the Writ Court that many of them are outside the scope of the work of the respondent has to be sustained. Once we sustain the finding of the Writ Court that many of the charges are outside the scope of work of the respondent, coupled with the finding of the Enquiry Officer that there has been no financial loss caused to the Government because of the action of the respondent, we have to necessarily confirm the finding of the Writ Court that the punishment imposed is shockingly disproportionate to the proved delinquencies.



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12. However, we find that the Writ Court has set aside the punishment in full and left it to the discretion of the Authorities to pay back wages or not. Once it is found that the punishment is disproportionate and the punishment is interfered with on the ground of dis-proportionality, it is for the Court to impose the alternative punishment. It cannot leave it to the discretion of the Authority. We are therefore constrained to interfere with the order of the Writ Court with reference to the punishment that is to be imposed on the respondent.

13. Considering the nature of the delinquencies and the fact that there has been no financial loss to the Government because of the actions of the respondent and most of the charges are only procedural in nature, we find that a stoppage in increment would serve as a proper punishment. We therefore impose a punishment of stoppage of increment with cumulative effect for a period of three years. The punishment will operate as on 27.02.2006, the date on which the original punishment was imposed. It is seen that the respondent has now attained the age of superannuation. Therefore they cannot be reinstatement. There will be a direction to the



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State to calculate back wages payable to the respondent by implementing the punishment that has been imposed by us as above and pay all arrears of salary and other benefits. Needless to state that the respondent would also be entitled to pension.

14. We dispose of the Writ Appeal with the above directions, the order of the Writ Court will stand set aside and the punishment of stoppage of increment for a period of three years with cumulative effect is imposed on the respondent. The salary and other benefits payable to the respondent shall be paid within a period of four months from the date of receipt of a copy of the order. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

15. Before parting with this case, we wish to point out that the order of the Writ Court was passed on 04.04.2013 and the Writ Appeal was filed with a delay of 869 days on 03.06.2016. There was a delay in re-presentation, which was condoned on 15.07.2016 and the delay in presentation was condoned on 25.10.2016. In the interregnum, the



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respondent had filed WP No.8149 of 2016 for implementation of the order of the Writ court. A Division Bench of this Court on 09.12.2016 has passed the following order:

“4. A perusal of the Judgment of the learned Single Judge, shows that, the following operative directions were issued in the matter.

“... 17. On the aforesaid circumstances, this Court has no hesitation in allowing the writ petition. Accordingly the writ petition is allowed and the impugned order is set aside and the respondents are directed to re-instate the petitioner with continuity of service and all pensionary benefits, within a period of four weeks from the date of receipt of a copy of this order.

18. In respect of back wages, it is made clear that it is open to the petitioner to approach the respondents by way of a 3 written representation and if, any such representation is made by the petitioner,



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the same shall be decided by the first respondent, according to law, within a period of six weeks thereafter. No order as to costs."

5. What troubles us is that, the appellants, to date have not re-instated the respondent, despite the fact, that there is no stay on the operation of the impugned Judgment.

6. We are of the view that the appellants are in violation of the order of the learned Single Judge. At this juncture, Ms.A.Srijayanthi, Special Government Pleader says that, she will get instructions in the matter."

16. Though the Division Bench directed the matter to be listed on 19.12.2016, it was directed to be posted after Christmas Vacation i.e., in the first Week of January 2017, but it saw the light of the day only on 16.04.2019, after almost 2 ½ years. Despite the fact that there was no interim order all through, even during the pendency of the Appeal, the order of the Writ Court has not been complied with. This shows the lethargy and slackness on the part of this Court also in listing these Appeals. The



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Registry is directed to ensure that such lethargy does not continue and further ensure that the matters are listed on the adjourned dates properly.

17. We should also point out that the Hon'ble Supreme Court has observed that interim orders granted have to be re-visited once in six months and if they are not extended they will lapse. By not listing cases on the adjourned dates, the Registry will be aiding persons to allow cases to drift and proceed with the execution or dispossession or recovery citing the judgment of the Hon'ble Supreme Court which will render dispensation of justice a mockery.

(R.S.M., J.) (S.S.K., J.)
31.01.2023

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Index : Yes
Internet : Yes
Speaking order
Neutral Citation: Yes



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To

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Government of Tamilnadu,
Labour and Employment Department,
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4. The Principal,
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Ariyalur, Perambalur District.

Copy to :

The Registrar Judicial,
Madras High Court,
Chennai 600 104.



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