



W.P.No.24334 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.24334 of 2018

K.Kandaiyan

...Petitioner

-Vs-

1.The Director/Revision Authority,
Milk Production and Diary Development,
Madhavaram, Chennai - 600 051.

2.The General Manager,
Villupuram-Cuddalore District
Co-operative Milk Products Union Ltd.,
Villupuram.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents relating to the orders issued in (1) Proc.Roc.No.10607/2016/M1 dated 19.05.2017 of the 1st respondent and (2) Pro.Na.Ka.No.2801/Pa.Aa.2/2013-14 dated 09.09.2015 of the 2nd respondent, to quash the same and issue consequential directions to the respondents to restore the increments with all consequential benefits to the petitioner and to treat the period of suspension from 29.10.2014 till 08.10.2015 as duty period for all purposes and to grant him all consequential benefits.



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For Petitioner : Mr.M.Ravi

For Respondents : Mr.L.P.Shanmugasundaram

ORDER

Heard Mr.M.Ravi, learned counsel appearing for the petitioner and Mr.L.P.Shanmugasundaram, learned counsel for the respondents.

2. Through a charge memo dated 20.11.2014, three charges were levelled against the petitioner herein. On 30.12.2014, the petitioner had rendered his explanation to the charge memo. Not being satisfied with the explanation, an enquiry came to be conducted and in the enquiry report dated 03.03.2015, the charges against the petitioner were held to be proved. Thereafter, a second show cause notice, calling for further explanation from the petitioner, was sent on 24.03.2015, to which, the petitioner had submitted his detailed explanation on 24.07.2015. In this background, the present impugned order dated 09.09.2015 has been passed by the second respondent herein, imposing the punishment of increment cut for one year with cumulative effect. As against the said order of punishment, the petitioner had preferred a revision petition to the first respondent herein, which was also



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rejected on 19.05.2017. Challenging these orders, the present writ petition has been filed.

3. While the learned counsel for the petitioner submitted that the impugned order of punishment is a non-speaking order, the learned counsel appearing for the respondents submitted that the enquiry was conducted in accordance with the District Cooperative Milk Producers Union Employees (Conduct, Discipline & Appeal) Rules [hereinafter referred to as 'the Rules'] and due opportunity was given to the petitioner during the course of enquiry and therefore, no interference is required to the impugned order of punishment.

4. The charge memo dated 20.11.2014 has been issued under Rule 7(ii) of the Rules. The procedure for dealing with the proven charges by the Disciplinary Authority is enumerated under Rule 10 of the Rules, which is extracted hereunder:-

10. Action on the Enquiry Report

i) The Disciplinary Authority having regard to the findings on all or any of the charges and the past service



record, after giving the concerned employee a reasonable opportunity of making representation on the penalty proposed, make an order imposing penalty.

ii) If the Disciplinary Authority, having regard to its findings on all or any of the charges, is of the opinion that the same has not been made out, it may pass an order exonerating the employee concerned.

iii) The Disciplinary Authority, shall if it disagrees with the findings of the Enquiring Authority on any of the charges, record its reasons for such disagreement and record its own findings on such charge, to the effect that the evidence on record is sufficient for the purpose, and make an order imposing any minor penalty or major penalty and if the same is not felt adequate under the circumstances, proceed under sub-rule (4).

iv) The Disciplinary Authority, if it is not itself the Enquiring Authority may, for reasons to be recorded in writing, remit the case to the Enquiring Authority for fresh or further enquiry and report thereon, and the Enquiring Authority shall thereupon proceed to hold further enquiry, as far as may be according to rule-7(i).



5. As per the aforesaid Rule, when the Disciplinary Authority disagrees with the further explanation rendered by the delinquent, he is required to record his reasons for such disagreement rendering his own findings on such charge on the basis of the evidences available on record and also that such evidence is sufficient for the purpose of imposing a minor or major penalty.

6. In the instant case, the impugned order of punishment merely refers to the procedure adopted by the Disciplinary Authority for issuance of the charge memo, explanation rendered by the petitioner, conduct of the enquiry and the enquiry report holding the charges as proved. Thereafter, a reference has been made to the further explanation rendered by the petitioner on 24.07.2015. With these observations, a vague sentence, stating that the explanations are not acceptable, has been made and accordingly, the order of punishment of increment cut for one year with cumulative effect was passed. Apparently, such a punishment order is not in conformity with the procedure stipulated for imposition of punishment under Rule 10 of the Rules. Thus, the order itself is deemed to be a non-speaking order and as such, it cannot be sustained. In view of this, it would be appropriate to remit the matter back to the Disciplinary Authority for a fresh consideration.



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7. In the light of the above findings, the impugned order of penalty dated 09.09.2015 is quashed. Consequently, the matter is remitted back to the second respondent herein for a fresh consideration. While considering and passing final orders, the second respondent shall adhere to the procedure contemplated under Rule 10(iii) and 10(iv) of the Rules and pass a speaking order, after assigning reasons and on consideration of the further explanation rendered by the petitioner on 24.07.2015. In view of the quashing of the order of penalty dated 09.09.2015, the subsequent order passed by first respondent in the revision petition, dated 19.05.2017, is also quashed. Such final orders shall be passed by the second respondent atleast within a period of 3 months from the date of receipt of a copy of this order.

8. Accordingly, the writ petition stands partly allowed. No costs.

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Index:Yes/No

Neutral Citation:Yes/No

Speaking order/Non-speaking order

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To
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M.S.RAMESH,J.

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