



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.16518 of 2020
& W.M.P.No.20492 of 2020

S.Karthikeyan

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Petitioner

versus

1.The State rep. by its Additional Chief Secretary to Government,
Home (Transport - IIA) Department,
Fort St.George, Chennai - 9.

2.The Principal Secretary / Transport Commissioner,
Chepauk,
Chennai - 5.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records from the file of the second respondent made in Proceedings R.No.71268/VC2/2009 dated 03.07.2017 which is confirmed by the first respondent made in G.O.(2D)No.331 Home (Transport-IIA) Department dated 19.11.2019 and quash both the orders and consequently direct the respondents to reinstate the petitioner in service as an Office Assistant with full continuity in service, monetary and attendant benefits.

For Petitioner : M/s.G.Selvi George

For Respondents : Mr.T.Arunkumar
Additional Government Pleader



ORDER

The petitioner has filed this petition seeking for a writ of Certiorarified Mandamus, calling for the records on the file of the second respondent made in Proceedings R.No.71268/VC2/2009 dated 03.07.2017 which is confirmed by the first respondent made in G.O.(2D)No.331 Home (Transport-IIA) Department dated 19.11.2019 and quash both the orders and consequently, direct the respondents to reinstate the petitioner in service as an Office Assistant with full continuity in service, monetary and attendant benefits.

2. Heard Ms.G.Selvi George, learned counsel for the petitioner, Mr.T.Arunkumar, learned Additional Government Pleader for the respondents and perused the materials available on record.

3. The petitioner, who joined as a Driver in the Transport Department in the year 1997 and thereafter, due to an injury in his leg was posted as an Office Assistant in the year 2009. While so, the second respondent has issued charge memo against the petitioner and two other persons, by stating that they demanded bribe from the drivers, who had



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passed through the Check Post and also they kept unaccounted money of Rs.44270/-. After the conclusion of the disciplinary proceedings, the petitioner was found guilty and later, he was given with the punishment of removal from service.

4. Ms.G.Selvi George, learned counsel for the petitioner submitted that the Appointing Authority, who had imposed the punishment on the petitioner did not pass any considered order as to why he has chosen to impose major punishment of removal from service. It is further submitted that the evidence available on record during the disciplinary proceedings did not disclose the presence of the petitioner and hence, the petitioner ought not to have been punished and the order of punishment has been passed without application of mind.

5. Mr.T.Arunkumar, learned Additional Government Pleader for the respondents has attracted the attention of this Court to the order of the Appointing Authority wherein he has clearly stated about the statement of one of the witnesses, who had stated in clear terms that the petitioner was in the Check Post, when he was passing the Check Post, he demanded to pay a



bribe of Rs.50 for getting the appropriate seal. So it cannot be said that the guilt of the petitioner has been recorded without any evidence.

6. From the submissions of Mr.T.Arunkumar, learned Additional Government Pleader for the respondents, it is learnt that the disciplinary proceedings has been initiated against 3 persons, who are in charge of the Check Post, namely, the Motor Vehicles Inspector, the Assistant and the petitioner, who is an Office Assistant. The charge against the Motor Vehicles Inspector got abated as he died subsequently. As against the other Assistant against whom the disciplinary proceedings has been initiated was also found guilty and he was imposed with the punishment of Compulsory Retirement.

7. The second respondent has attempted to distinguish the choice of imposing punishment of removal from service on the petitioner though the other person has been given with the punishment of Compulsory Retirement. It is learnt that the charges against the other person is not only for lack of supervision but also the allegations of corruption. When two persons have been given with charge memo containing similar charges, it is



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not fair on the part of the second respondent to impose the punishment of removal on one and Compulsory Retirement on the another. In view of the principle of equality under Article 14 of the Constitution of India, the same would be applicable to the petitioner also and hence the second respondent is directed to pass appropriate orders in the light of the other person, who has been given with the punishment of Compulsory Retirement within a period of eight weeks.

8. In the result, this Writ Petition is disposed and the second respondent is directed to pass appropriate orders in the light of the other person [Assistant], who has been given with the punishment of Compulsory Retirement, within a period of eight (8) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

06.11.2023

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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R.N.MANJULA, J.

sri

To

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