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W.P. No.27851 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2023

CORAM:
THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P. No.27851 of 2023
and
W.M.P. Nos.27342 and 27343 of 2023

V. Dhanalakshmi

Petitioner

v

1 The Registrar General
High Court of Madras
Chennai

2 The Principal District Judge
Tiruppur

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of the first respondent in connection with the impugned proceeding in R.O.C.No.39127/2019/C1 dated 04.02.2020 of the first respondent and quash the same and consequently, direct the first respondent to restore the petitioner's seniority and promote her on par with her juniors with all monetary benefits.

For petitioner Mr. V. Neethidurai

For respondents Mr. V. Vijay Shankar
Standing Counsel



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ORDER

(made by S. VAIDYANATHAN, J.)

This writ petition has been preferred impugning the proceedings dated 04.02.2020 of the appellate authority, *viz.*, the first respondent, by which, the order of the disciplinary authority, *viz.*, the second respondent, has been upheld, and for a consequential direction to the first respondent to restore the petitioner's seniority and promote her on par with her juniors with all monetary benefits.

2 A bird's eye view of the facts giving rise to the filing of this writ petition is as under:

2.1 The petitioner is, at present, working as Head Clerk, Mahila Court, Tiruppur. While she was working as Head Clerk in the District Munsif Court, Palladam, on an anonymous complaint, the Principal District Judge, Tiruppur, directed conduct of a Vigilance enquiry against the petitioner by the Judicial Magistrate, Palladam.

2.2 While so, the Chief Justice of this Court directed the Principal District Judge, Tiruppur, to initiate departmental proceedings against the petitioner with reference to the aforesaid anonymous complaint, in pursuance



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whereof, *vide* proceedings dated 03.02.2017, the petitioner was directed to submit her explanation *qua* purchase of housesites in her own name and husband's name by availing loans for Rs.4.50 lakhs and Rs.5.00 lakhs by mortgaging properties sans prior permission.

2.3 Not satisfied with her explanation that the source for purchase is the income of her husband who does business in clothes, the Principal District Judge, Tiruppur, framed charges on 07.03.2017 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, in response to which, the petitioner submitted her explanation reiterating her earlier stand.

2.4 The I Additional District Judge, Tiruppur, who was appointed as the Enquiry Officer, *vide* his report dated 09.10.2017, held that the charges were proved, pursuant to which, the petitioner was directed to submit her further explanation.

2.5 Not satisfied with her further representation, eventually, she was inflicted with a punishment of stoppage of one increment for one year with cumulative effect, *vide* proceedings dated 04.07.2018 of the second respondent.



2.6 Thereagainst, the petitioner preferred a writ petition being W.P.No.19859 of 2018 which was dismissed as withdrawn *vide* order dated 03.12.2018, granting liberty to the petitioner to exhaust the appeal remedy.

2.7 In pursuance thereof, the petitioner preferred an appeal dated 10.04.2019, wherein, the appellate authority, *viz.*, the first respondent, noting, *inter alia*, that the petitioner herself has admitted that she has not obtained prior permission for any of the transactions done by her *qua* immovable property; she had remained quiet from 2004, *i.e.*, the year in which, the first transaction took place, upheld the order of punishment imposed by the disciplinary authority.

2.8 The aforesaid order passed by the first respondent upholding the order passed by the second respondent, is under assail in this writ petition.

3 At the outset, it is worth pointing out that the petitioner has assailed only the order of the appellate authority and not the order of the disciplinary authority. When this was pointed out to the learned counsel for the petitioner, he submitted that he is willing to challenge the order of the disciplinary authority also by way of filing an amendment petition. Even



be acceded to, we are of the view, more so, in the light of the explanation submitted by the petitioner, that she has committed a misconduct and concededly, she never informed the Head of the Department about the purchase of housesites by availing loan by mortgaging properties.

4 The learned counsel for the petitioner contended that in case of two staff members, *viz.*, Prabakaran and Salahudeen, involved in more or less similar misconduct, Prabhakaran has been let off with mere warning and Salahudeen has been exonerated, whereas, the petitioner has been inflicted with the punishment of stoppage of increment cut, which is discriminatory.

4.1 Now, let us delve into the case of the aforesaid two staff members:

4.2 As contended by the learned counsel for the petitioner, it is true that Prabhakaran has been imposed with a punishment of warning and has been directed to be careful in future. But, be it noted, in the case of Prabhakaran who also did not seek prior permission for purchase of a plot, he had voluntarily declared the said purchase, which is not so in the case of the petitioner.



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4.3 Coming to the case of Salahudeen, a staff of the Tiruppur Sub Court, who had availed loan sans prior permission and for whom, charge memo was issued after ten years, the charge levelled against him was not proved, which is not so in the case of the petitioner.

4.4 Thus, the cases of Prabhakaran and Salahudeen relied on by the learned counsel for the petitioner are clearly distinguishable on facts.

In view of the above discussion, this writ petition fails and is accordingly dismissed sans costs. Connected W.M.Ps. stand closed.

**(S.V.N., J.) (K.R.S., J.)
25.09.2023**

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To

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High Court of Madras, Chennai

2 The Principal District Judge
Tiruppur

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