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W.P. No. 26379 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2023

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THE HON'BLE MR. JUSTICE S.VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.P. No. 26379 of 2022

S. Palani

..Petitioner

Vs.

1. The Principal Judge,
City Civil Court,
Chennai – 600 104.
2. The Registrar General,
High Court of Judicature at Madras
Chennai – 600 104.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorari to call for the records of the order ROC No. 66503/2018/C1 dated 11.05.2021 on the file of the 2nd respondent and quash the same as illegal, arbitrary as far as the petitioner is concerned.

For Petitioner :: Mr.S. Gopinath



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For Respondents :: Mr.V. Ayyadurai,
Senior Advocate for
Mr.A. Durai Eswar for
R1 & R2

ORDER

(Order of the Court was made by **S. Vaidyanathan,J.**)

The present writ petition has been filed challenging the order of the 2nd respondent dated 11.05.2021 confirming the punishment of stoppage of one increment with cumulative effect imposed by the 1st respondent.

2. The facts that led to the filing of the writ petition:

(i) On the basis of a complaint dated 16.04.2013 given by one Mr.C.S. Kothandaraman, in connection with the tampering of document No.10 filed in I.A. No. 4013/2013 in O.S. No. 1489/2013 on the file of VI Assistant City Civil Court, Chennai, after an ex parte order of injunction was passed on 13.03.2013 in I.A. No. 4013/2013 against him, a preliminary enquiry was ordered to be conducted by the authority concerned and after having inquired with the petitioner, who was then working as Bench Clerk Grade II in VI Assistant City Civil Court, Chennai, and the Office Assistant



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attached to the said Court, recording of their statements and after completing of enquiry, the petitioner was held responsible for tampering of document.

(ii) The allegation against the petitioner was that after passing of the ex parte order in I.A. No. 4013/2013 in O.S. No. 1489/2013, while the case records were in the custody of the Court of VI Assistant Judge, City Civil Court, Chennai, he had indulged in malpractice and tampered document No.10, namely, family ration card bearing address as Old No.25, New No.47, Pavalakara Street (Coral Merchant Street), Chennai -1 and replaced it with a copy of family ration card having address as Old No.26A, New No.149/26A, Village Street, Chennai -19.

(iii) With regard to the allegation against the petitioner pertaining to tampering of case records, an explanation was sought for from the petitioner. The petitioner submitted his explanation on 05.07.2013. Not satisfied with the explanation, charges were framed under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules and a charge memo dated 06.09.2013 was issued containing the following charges:

“Charge:



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(i) You, Thiru S. Palani, the then Bench Clerk, Grade-Ii, VI Assistant City Civil Court, Chennai, being the custodian of case records, had indulged in malpractice and fabricated the Document No.10, Ration Card in O.S. No. 1489/2013 on the file of VI Assistant Court, which is a clear misconduct. Therefore, you are charged for your misconduct, violating Rule 20 of Tamil Nadu Government Servants' Conduct Rules.

(2) You, Thiru S. Palani, the then Bench Clerk, Grade-II, VI Assistant City Civil Court, Chennai being a Government Servant failed to maintain absolute integrity and devotion to duty. Therefore, you are charged for the conduct unbecoming of a Government Servant.”

The petitioner submitted his written statement of defence dated 13.12.2013. The VII Additional Judge, City Civil Court, Chennai was appointed as Enquiry Officer to conduct an enquiry in respect of the charges framed against the petitioner.

(iv) During the enquiry, the complainant examined himself as P.W.1



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and marked the ration card disclosing the address of the suit property filed as plaint Document No.10 at the time of presentation of the plaint as Ex.P1 and the other ration card replaced subsequently was marked as Ex.P2. The petitioner examined himself as D.W.1. But, no documents were marked on his side. After conducting a detailed enquiry and on evaluation of evidences adduced by the parties, the Enquiry Officer stated that the process application filed by the plaintiff along with the plaint and the documents and bailiffs report were available in the bundle and in the set of papers of Document No.10, the seal found was not the one found in the other documents, the stitching had been removed and a new stitch had been made in the same docket and copy of another ration card had been stitched in its place. The Enquiry Officer came to the conclusion that the document in the custody of the Court had been replaced by tampering with the records and submitted his report dated 20.09.2017 holding that the charges levelled against the petitioner were proved. The petitioner was called upon to submit his further representation pursuant to the said enquiry report and the said representation was submitted on 14.10.2017.

(v) After considering all the relevant factors and taking into



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account the extenuating circumstance, namely, that the petitioner had clean past record of 19 years of service, the Disciplinary Authority/1st respondent herein, while concurring with the findings of the Enquiry Officer, passed an order dated 07.06.2018 imposing the punishment of stoppage of one increment with cumulative effect. Aggrieved by the said order of the Disciplinary Authority, an appeal petition dated 09.07.2018 was preferred by the petitioner to the 2nd respondent, which came to be dismissed by the impugned order holding that no legal grounds were made out by the petitioner to interfere with the punishment imposed by the 1st respondent. The said order dated 11.05.2021 is being assailed in this writ petition.

3. Heard both sides.

4. A cursory glance at the documents available on record would make it very clear that based on the evidence available before the Original Authority and Appellate Authority and taking into account, the clean past record of service, even though replacement of document is a serious misconduct warranting capital punishment of dismissal from service, both the



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authorities have only imposed the punishment of stoppage of one increment with cumulative effect.

5. Though it has been vehemently contended by the writ petitioner that the punishment imposed, more so, with cumulative effect will have greater repercussions on his increment and service benefits, we are of the view that in the light of Rule 20 of Tamil Nadu Government Servants Conduct Rules, 1973 the petitioner should have been imposed with major punishment, not less than dismissal from service. However, in the present case, taking into account that the charge of tampering of court records, eventhough is a serious misconduct and comes under falsification of Government records, the authorities have taken a lenient view and imposed the punishment of stoppage of one increment with cumulative effect.

6. Though it is submitted that the petitioner had not been given an opportunity and that the matter needs to be examined again, we are not inclined to do so. In case, the matter is remitted and considered afresh, even

S. VAIDYANATHAN,J.



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a major punishment than the one that has been imposed, which is the subject matter of the writ petition, can be imposed. Hence, in order to give a quietus to the entire issue, we are not inclined to interfere with the order of the Original Authority as confirmed by the Appellate Authority. The writ petition stands dismissed. No costs.

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(S.V.N.J.) (K.R.S.J.)
12.07.2023

To

1. The Principal Judge,
City Civil Court,
Chennai – 600 104.
2. The Registrar General,
High Court of Judicature at Madras
Chennai – 600 104.

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