



W.P(MD)No.8589 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.09.2023

DELIVERED ON : 12.10.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.8589 of 2023

and

W.M.P(MD)No.7895 of 2023

A.Murugan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its
Additional Chief Secretary to Government,
Water Resources Department,
Fort St. George,
Chennai-9.

2.The State of Tamil Nadu,
Represented by its
Principal Secretary to Government,
Public Works Department,
Fort St. George,
Chennai-9.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records



W.P(MD)No.8589 of 2023

pertaining to the impugned orders in charge memo in Letter No. 1981/E1/2015-28, dated 15.06.2018 issued by the second respondent and consequential order of the first respondent imposing the punishment of withholding of the petitioner's increment for one year without cumulative effect vide G.O(D)No.324 Water Resources (D1) Department, dated 26.12.2022.

For Petitioner : Mr.V.Karthikeyan

For Respondents : Mr.N.Muthuvijayan
Special Government Pleader

ORDER

The present writ petition has been filed for a Writ of Certiorari, calling for the records pertaining to the impugned orders in charge memo in Letter No. 1981/E1/2015-28, dated 15.06.2018 issued by the second respondent and consequential order of the first respondent imposing the punishment of withholding of the petitioner's increment for one year without cumulative effect vide G.O(D)No.324 Water Resources (D1) Department, dated 26.12.2022.



W.P(MD)No.8589 of 2023

2. Heard the learned Counsel for the petitioner and the learned Special Government Pleader for the respondents and carefully perused the materials available on record.

3. The petitioner served as an Executive Engineer, District Rural Development Agency, Thoothukudi from 18.11.2015 to 10.07.2018. While so, the second respondent issued charge memo vide proceedings of the Public Works Department, dated 15.06.2018 for the alleged occurrence which took place in July 2011, framing two count of charges as against the petitioner. The petitioner submitted his detailed explanation on 28.07.2018. The petitioner was working as Executive Engineer, District Rural Development Agency, Sivagangai during that point of time. Similar disciplinary proceedings were initiated against one Tmt.P.Bamini Latha, Former Assistant Project Officer (Accounts), Thiru.S.Ulaganathan, Former Superintendent, Thiru.V.Pandiarajan, Former Additional Superintendent (Schemes), Thiru.E.Balasubramanian, Former Additional Superintendent (Accounts) / Deputy Block Development Officer, Thiru.A.Madasamy, Former Assistant and Thiru.M.Ganapathy, Former Senior Draughting Officer of the District Rural Development Agency, Thoothukudi by the

3/15



W.P(MD)No.8589 of 2023

proceedings of the respondents, dated 14.11.2018. At the first instance, Thiru.K.Basker, Superintending Engineer, Buildings (Construction and Maintenance) Circle, Public Works Department, Tirunelveli was appointed as inquiry officer. However, the said order was cancelled by the respondents on 09.01.2019. Thereafter, on 09.01.2019, Thiru.M.Rajamohan, Superintending Engineer, Buildings (Construction and Maintenance) Circle, Medical Works, Public Works Department, Madurai was appointed as inquiry officer in the said proceedings.

4. The said inquiry officer conducted preliminary inquiry on 12.03.2019, 14.03.2019, 19.03.2019, 22.03.2019 and 27.03.2019. The inquiry officer submitted his report to the first respondent on 10.12.2020. Accepting the inquiry report, the first respondent issued a letter on 24.08.2021, calling for further explanation from the petitioner communicating a copy of inquiry report. Refuting the findings of the inquiry officer, the petitioner submitted his elaborate explanation on 08.10.2021. Without considering the explanation of the petitioner, the first respondent passed the impugned order, imposing a punishment of withholding of increment for one year without cumulative effect on 26.12.2022.



W.P(MD)No.8589 of 2023

Challenging the charge memo, dated 15.06.2018 issued by the second respondent and the impugned order of punishment imposed by the first respondent vide proceedings, dated 26.12.2022, this writ petition came to be filed.

5. A counter has been filed by the learned Special Government Pleader for the respondents and he submitted that the petitioner is a technical and field official, who is bound to verify the works concerned on site and to present a correct report to his higher officers. A dismal failure of him in this regard was unearthed by the Directorate of Vigilance and Anti Corruption and the petitioner can never evade responsibility for the lapse on his part, which resulted in the misappropriation of Government money. Only as a result of the directions of the findings made by the Directorate of Vigilance and Anti Corruption after detailed enquiry, disciplinary proceedings were initiated against the petitioner and others. Immediately after the receipt of report from the Directorate of Vigilance and Anti Corruption, the first respondent had initiated action after following due procedures and processes. As a result of which, Government order in G.O(D)No.189, Public Works (E1) Department, dated 15.06.2018 was



W.P(MD)No.8589 of 2023

issued for initiating common disciplinary proceedings against the petitioner and 11 others. The delay in initiation of disciplinary proceedings against the petitioner was exclusively due to administrative reasons, which is reasonable and justifiable and therefore, the impugned final order of imposition of punishment of withholding of increment for one year without cumulative effect do not deserve interference by this Court. The impugned orders were well considered and passed in accordance with the powers vested by the statutory rules without any iota of arbitrariness. Hence, the impugned orders need not be interfered with and on that basis, he pressed for dismissal of this writ petition.

6. The main contention of the petitioner is that the charge memo was issued belatedly after a period of seven years from the date of alleged occurrence for an act of misconduct, without any proper or valid explanation for such long delay in issuing the charge memo and thereafter, concluding the disciplinary proceeding in 2022. For which, the impugned order was served to the petitioner in February 2023. No doubt the disciplinary proceeding has been initiated by the respondents as against the petitioner only on the direction of the Department of Vigilance and Anti



W.P(MD)No.8589 of 2023

Corruption. The outcome of the findings made by the Directorate of Vigilance and Anti Corruption resulted in issuance of Government order in G.O(D)No.189, Public Works (E1) Department, dated 15.06.2018 by the Government for initiating common disciplinary proceedings against the petitioner and 11 others. Thereafter, vide impugned Government letter, dated 15.06.2018, two specific charges were framed against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

7. The first charge is that the petitioner during his tenure as Executive Engineer, District Rural Development Agency, Thoothukudi had failed to scrutinize properly the name of the work given by the Project Director, District Rural Development Agency, Thoothukudi, with the name of the work given in the estimate, while putting up the official note for granting administrative sanction for the work of "Construction of flood protection wall near check dam in the supply channel to Sayarpadaithangi Tank in Akilandapuram Village of Kovilpatti Taluk of Thoothukudi District", signed the note file and submitted it for approval; thereby displaying his negligence in his duty.

7/15



W.P(MD)No.8589 of 2023

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8. The second charge is with respect to his failure during his tenure as Executive Engineer, District Rural Development Agency, Thoothukudi to scrutinize properly the name of the work in the administrative sanction order with the name of the work in the completion report, while putting up the official note for releasing final payment for the work of "Construction of flood protection wall near check dam in the supply channel to Sayarpadaithangi Tank in Akilandapuram Village of Kovilpatti Taluk of Thoothukudi District", signed the note file and submitted it for approval; and thereby, neglecting his duty and failing to maintain absolute integrity and devotion to duty as warranted under Rule 20 of the Tamil Nadu Government Servants Conduct Rules, 1973.

9. An inquiry officer, namely, M.Rajamohan, Superintending Engineer, PWD Madurai was appointed to conduct inquiry in the said proceedings. The specific findings of the inquiry officer are as follows:

(i) The delinquent officer did not obtain any feasibility report from the executing agencies before sanction of work.



W.P(MD)No.8589 of 2023

(ii) No records were found to prove that the delinquent officer had visited the site of work before the sanction was given.

(iii) No intimation was given to the Member of Parliament, Thoothukudi about the sanction of work and its progress as mandated in the guidelines of MPLADS-2012.

(iv) No records were found to show that all the MPLADS works were displayed as per the guidelines stipulated in MPLADS-2012.

(v) The delinquent officer being a monitoring and executing authority failed to frequently inspect and visit the sites before sanctioning and releasing the funds.

(vi) Without inspecting work site, the delinquent officer had send his report to the Project Director while releasing the final payments.

10. The petitioner had submitted his detailed explanation to both the impugned charge memo, dated 15.06.2018 and the inquiry report of the inquiry officer. However, without considering his explanation, the impugned punishment order, dated 26.12.2022 came to be issued vide G.O(D)No.324 of the Water Resources (D1) Department, dated 26.12.2022, imposing a minor punishment of withholding of increment for one year without



W.P(MD)No.8589 of 2023

cumulative effect. Though the petitioner had categorically submitted that the records relating to the said work mentioned in the charges, both at the time of giving administrative sanction order and at the time of final payment, releasing order had been scrutinized properly by him as Executive Engineer (Rural Development) Thoothukudi and there was no case of negligence in duty at all. For the two count of charges, the petitioner was served with a list of four documents and a list of 10 witnesses. Only after careful and independent examination of the inquiry report of M.Rajamohan, the then Superintending Engineer, Madurai, the Government accepted the findings of the inquiry officer and held both the charges against the petitioner as proved. Hence, without delay, a copy of inquiry officer's report was communicated to the petitioner for his further representation on the findings of the inquiry officer.

11. The petitioner submitted his defence statement for the two count of charges on 28.07.2018 and his explanation on 08.10.2021. The petitioner himself had admitted that during inquiry on 28.05.2019, he cross-examined the prosecution witness one K.A.Sampath, Special Chief Engineer retired. He was also given appropriate opportunity to cross-examine all the

10/15



W.P(MD)No.8589 of 2023

witnesses, who were examined in the disciplinary proceeding. That apart, it is also evident that only after the receipt of a preliminary inquiry report from the Vigilance and Anti Corruption Department, the respondents have initiated disciplinary proceedings as against the petitioner and 11 others on the direct supervision of the Directorate of Vigilance and Anti Corruption, Department.

12. Though the petitioner claims that the respondents ought to have exonerated him in the disciplinary proceedings since the various delinquent officers against whom various charges have been framed were exonerated. Though the disciplinary inquiry is the same with respect to the petitioner and 11 other delinquent employees, the charges against each and every delinquent employee are distinct and different and hence, it is not mandatory for the disciplinary authority to impose the same punishment as against the various delinquent employees.

13. Hence, this Court can rightfully infer that the disciplinary proceedings would have been conducted in accordance with law. The petitioner was properly served with a charge sheet with due opportunity to



W.P(MD)No.8589 of 2023

submit his explanation and thereafter, he was also furnished with a copy of inquiry report, for which he was also given appropriate time for submitting his explanation and on receipt of his explanation, on perusal of the same, the respondents rejecting the explanation commenced the disciplinary proceedings giving him opportunity to peruse all the documents and cross-examine the witnesses, who have given the statements and also to submit a detailed defence statement and only after analyzing and perusing all the relevant documents and the petitioner's defense properly, the Government has passed the impugned order of imposition of punishment of postponement of increment for one year without cumulative effect. Though 17(b) departmental inquiry was initiated by the department / respondents as against the petitioner after contemplating the disciplinary proceeding properly, the petitioner was imposed only with a minor punishment of postponement of increment for one year without cumulative effect and a careful perusal of the entire details of the disciplinary proceeding conducted as against the petitioner would reveal that the punishment imposed by the respondents on him is only a minor punishment.



W.P(MD)No.8589 of 2023

14. Limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the Court. In the instant case the punishment inflicted is only a minor penalty.

15. It is proportionate to the proved delinquency of negligence in work. Unless and until, the punishment imposed by the respondents on delinquent is not shockingly dis-proportionate, this Court has no business to interfere with the same. That apart, the petitioner has approached this Court without exhausting the remedy of review available to him under Rule 20 of the Civil Services Discipline and Appeal Rules. Precisely the impugned final order passed in the disciplinary proceeding against the petitioner is a reasoned speaking order, which has no illegality. In view of the same, this writ petition is dismissed. Accordingly, this writ petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

12.10.2023



W.P(MD)No.8589 of 2023

NCC : Yes
Index : Yes
Internet : Yes
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To

- 1.The Additional Chief Secretary to Government,
The State of Tamil Nadu,
Water Resources Department,
Fort St. George,
Chennai-9.
- 2.The Principal Secretary to Government,
The State of Tamil Nadu,
Public Works Department,
Fort St. George,
Chennai-9.



WEB COPY



W.P(MD)No.8589 of 2023

L.VICTORIA GOWRI, J.

BTR

Order made in
W.P(MD)No.8589 of 2023

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