



W.P.(MD).No.16131 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.09.2023

PRONOUNCED ON : 18.10.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.16131 of 2023

and

W.M.P(MD)No.13519 of 2023

S.Ramesh Kumar

... Petitioner

Vs.

1.The Additional Chief Secretary to the Government,
Labour Welfare and Skill Development Department,
Secretariat,
Chennai – 600 009.

2.The Director of Employment and Training,
Guindy,
Chennai – 600 032.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent pertaining to the proceedings in G.O(D)No.120, Labour, Welfare and Skill Development (P1) Department, dated 16.02.2023 and quash the same and consequently, direct the respondents to confer all the attendant benefits to the petitioner.



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For Petitioner : Mr.P.Valliyappan
Senior Counsel
for M/s.PV Law Associates

For Respondents : Mr.N.Muthu Vijayan
Special Government Pleader

ORDER

The present Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, to quash the order of the first respondent pertaining to the proceedings in G.O(D)No.120, Labour, Welfare and Skill Development (P1) Department, dated 16.02.2023 and consequently, direct the respondents to confer all the attendant benefits to the petitioner.

2.Heard Mr.P.Valliyappan, learned senior counsel appearing for the petitioner and Mr.N.Muthu Vijayan, learned Special Government Pleader appearing for the respondents and perused the materials available on record.

3.The petitioner is currently serving as the Deputy Director at the Government Industrial Training Institute at Madurai. Initially, he was appointed on 31.12.1986 as the Junior Training Officer at the Industrial Training Institute, Ramanathapuram. Thereafter, he was



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promoted to various posts and during the period 2016, he served as Principal in the Government Industrial Training Institute at Paramakudi. The petitioner while working as a Principal in the Government Industrial Training Institute at Paramakudi, called for applications for filling up two posts of Office Assistant under the category of GT (priority) and Scheduled Caste Arunthathiyar (W) at Government ITI, Paramakudi. One V.Ramalakshmi, applied for the post of Office Assistant and attended the interview conducted on 12.08.2016. While so, one P.Ganesan has filed a Public Interest Litigation in W.P(MD)No. 21103 of 2017 alleging that irregular appointments were made for the post of Office Assistant in the Government Industrial Training Institute at Tamil Nadu without obtaining approval from the staff committee as per the instructions in G.O.Ms.No.44, Labour and Employment Department, dated 11.03.2015. In the said case, the petitioner had submitted a draft counter-affidavit with reference to the appointment of Office Assistant in the Government Industrial Training Institute at Paramakudi, based on which a counter-affidavit was filed by the sixth respondent therein/petitioner herein before this Court. The petitioner had given instructions for preparation of a draft counter-affidavit that the selection orders were issued to two persons namely S.Karthikeyan and V.Ramalakshmi.



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4.While so, the said V.Ramalakshmi filed a Writ Petition in W.P(MD)No.9996 of 2018 before this Court with a prayer to issue an appointment order in her favour to the post of Office Assistant as per the selection made in the interview based on the counter-affidavit filed by the petitioner in the Public Interest Litigation in W.P(MD)No.21103 of 2017. The petitioner had made statements in the draft counter-affidavit that the selection orders were issued to two persons and the selection of the two persons has been displayed in the notice board and has been communicated to the higher level officials. However, later it was noticed that no appointment order was issued to the post of Office Assistant for the category of Scheduled Caste Arunthathiyar/Destitute Widow in the said Government Industrial Training Institute at Paramakudi. Pursuant to the same, the first respondent vide letter No.11692/P1/2019-11, Labour Welfare and Skill Development (P1) Department, dated 13.08.2021, had instructed the second respondent to frame charges against the petitioner for furnishing false information in the draft counter-affidavit in the said Public Interest Litigation. Accordingly, charges have been framed under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 against the petitioner by the second respondent's show



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cause notice dated 15.09.2021. After conducting disciplinary proceedings appropriately for the proven charges a penalty of “increment cut for the period of one year without cumulative effect” was imposed on the petitioner vide second respondent's proceedings dated 16.12.2021 and the same was served to the petitioner on 05.01.2022. As against the said order of punishment, the petitioner had submitted an appeal before the first respondent. However, the first respondent in consultation with the Tamil Nadu Public Service Commission had enhanced the imposed punishment of “increment cut for a period of one year without cumulative effect” into that of “withholding of increment for a period of three years without cumulative effect”, vide G.O(D)No.120, Labour Welfare and Skill Development (P1) Department, dated 16.02.2023. Challenging the same, this Writ Petition came to be filed.

5.The Joint Secretary to Government, Labour Welfare and Skill Development Department, Secretariat, Chennai, has filed a counter-affidavit on behalf of the respondents and the learned Special Government Pleader appearing for the respondents vehemently submitted that if the petitioner had decided not to appoint the only candidate who appeared for the interview under the Scheduled Caste



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Arunthathiyar (Widow/Destitute Widow) category, he could have very well declared the same in the interview itself. On the other hand, he had informed the said V.Ramalakshmi about her selection orally and thereafter failed to issue an appointment order to her. The said exercise was not in accordance with recruitment procedures. When such was the case, adding fuel to the existing problems, the petitioner failed to declare the facts correctly while preparation of draft counter affidavit in W.P(MD)No.21103 of 2017. The petitioner had made three specific false statements in the draft counter-affidavit namely i) Appointment orders have been given to both the candidates ii) the appointment orders have been displayed in the notice board and iii) the appointment orders have been communicated to the higher level officials. That apart, as per the Handbook on disciplinary procedures in sub proviso (ii) under provision 11 in Chapter – III (initiation of Disciplinary Proceedings), it was informed that without prejudice to the generality of situations involving indiscipline, moral turpitude, corruption etc., action for imposing major penalties under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, may be taken for various reasons that include, falsification of Government records, irregularity or negligence in the discharge of official duties with a dishonest motive etc. Considering the grave nature of lapses on



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the part of the petitioner ie., furnishing false information in the counter affidavit, the actual action which is warranted as against the petitioner is under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. But the punishment, which was already awarded at the first instance for the charges framed against the petitioner was under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Thereafter, in the appeal filed by the petitioner against the punishment of 'increment cut for a period of one year without cumulative effect', the first respondent enhanced the said punishment as 'increment cut for a period of three years without cumulative effect vide G.O(D)No.120, Labour Welfare and Skill Development (P1) Department, dated 16.02.2023.

6.It is a well-settled principle that whenever a Government servant commits grave irregularities, misconduct, misbehaviour or negligence in work, disciplinary action has to be initiated against him by the authority concerned in order to put an end to such omissions and commissions. Since the lapses committed by the petitioner are grave, disciplinary action initiated as against him is in order and on that basis, he pressed for dismissal of the Writ Petition.



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7.Per contra, the learned senior counsel appearing for the petitioner drew my attention to the order passed by this Court in W.P(MD)No.9996 of 2018 filed by V.Ramalakshmi, wherein this Court has made a pertinent observation and the same is extracted as follows:-

"9. One thing remains and this concerns the erroneous statement made by R2 to the effect that an appointment order was issued to the petitioner. To ascertain what action, if any, had been initiated against R2 for filing an affidavit containing errors and factual discrepancies before this Court, the following order had been passed on 08.12.2021:

"Learned counsel for the petitioner seeks time to obtain instructions in regard to the affidavit filed by the first respondent. That apart, records are produced, which do not contain any information in regard to the selection order stated to have been issued in the name of the petitioner.

2.Mr.A.K.Manikkam, learned Special Government Pleader submits that there is no such order and that the statement of the Principal to the Government ITI Paramakudi in counter filed in the Public Interest Litigation is incorrect.



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3.Let this submission be in writing. That apart, let there be an explanation in the affidavit to be filed, explaining the delay in taking action as against the deponent in the aforesaid sworn affidavit.

4.List on 21.12.2021. Affidavit by then.”

10. Today, proceedings bearing No. 24251/OP2/2021, dated 16.12.2021 are placed on file imposing a punishment of increment cut for a period of one year without cumulative effect for the aforesaid charge.

11. A perusal of order dated 16.12.2021 makes it clear that the proceedings are nothing but a farce. The entirety of the explanation which is extracted in order dated 16.12.2021 is a cut and paste of the counter filed by R2 in this writ petition. It is thus apparent to me that the punishment imposed has been merely an attempt to convince the Court that remedial action has been taken as against the authority.

12. While wholly unconvinced, I accede to the plea of learned Special Government Pleader who states that the Officer had made a genuine mistake, and allow this matter to lie.”



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8.Quoting the concluding portion of the order discussed supra, the learned senior counsel appearing for the petitioner submitted that already this Court has observed that the officer had made a genuine mistake and should allow this matter to lie, the action taken by the respondents as against the petitioner is disproportionate to the charges framed as against him and on that basis, pressed for allowing the Writ Petition.

9.Considering the rival arguments and on perusing the materials available on record, the crux of the matter which has to be decided in this case is whether the impugned G.O has to be interfered with by this Court, citing that the punishment imposed on the petitioner in the appeal proceeding is disproportionate to the charges framed as against him.

10.G.O(Ms)No.128, Finance (Ze-Bag) Department, dated 21.02.2006, has prescribed norms for filling up vacancies to the post of Office Assistant in the ratio of 12:1 ie., one Office Assistant has to be appointed for 12 officers/Ministerial staff. Accordingly, the petitioner notified two vacancies under general turn (priority) and Scheduled Caste, Arunthathiyar (Widow/Destitute Widow) categories respectively



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for the post of Office Assistant at the Government Industrial Training Institute at Paramakudi. The interview was conducted on 12.08.2016, wherein 49 candidates participated in the interview called for in the general turn priority category and the top performer was one S.Karthikeyan, who was selected and appointed for the post of Office Assistant at the Government Industrial Training Institute at Paramakudi. As far as the Scheduled Caste Arunthathiyar (Widow/Destitute Widow) category, only one candidate, namely V.Ramalakshmi, out of two who were sponsored by the employment exchange, appeared for the interview. Since the number of sanctioned ministerial posts was 15 and the norms prescribed the ratio of only one Office Assistant per 12 staff, the said S.Karthikeyan was accorded priority in selection as per the procedures and was selected.

11.The petitioner being the Principal of the Institution which called for the selection process to two posts of Office Assistant ought to have known the entire details of the selection process which was commenced and completed at his instance under his direct supervision. Hence, when a Public Interest Litigation in W.P(MD)No. 21103 of 2017 came to be passed, there is no question of being inadvertent with respect to giving instructions for preparation of draft



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counter-affidavit in a matter which was fully involved, commenced and concluded at his instance. Hence, the submission of the petitioner that the mistake which had crept in the preparation of the draft counter-affidavit which was filed in W.P(MD)No.21103 of 2017 cannot be accepted by all means. That apart, the contention of the petitioner in his counter-affidavit that later a better counter-affidavit was also prepared but however due to lapse of time, even before filing of the same, the said Writ Petition came to be disposed of could also be given any significance since the same was not duly filed. The defence taken by the petitioner, relying upon the order passed by this Court in W.P(MD)No.9996 of 2018 with respect to a passing command of this Court in the said Writ Petition filed by V.Ramalakshmi that the Special Government Pleader submitted that the officer had made a genuine mistake with respect to the petitioner filing a draft counter-affidavit with false information cannot be adopted by this Court in a case with respect to the disciplinary proceedings which were initiated by the disciplinary authorities against the petitioner for the lapses in the discharge of his official duties. Though the petitioner had contended that he was an awardee of Dr.Radhakrishnan award at the Independence Day Celebration and he had been granted with certificate of appreciation in various instances, that will not preclude



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him from being dutiful and careful while giving instructions for the preparation of draft counter-affidavit and thereafter, signing the finally prepared counter-affidavit to be filed before the Court of law. The Government servants are assisting the mechanism of administration of the various offices of the Government concerned. The slightest mistakes or carelessness committed by the Government officers in the discharge of their official duties could collapse the entire system of administration. Hence, the first and bounden duty of a Government servant is to be vigilant, attentive, careful and dutiful in the discharge of his/her duties while in office. Negligence or inadvertence in the exercise of official duties certainly warrants disciplinary action and hence, this Court is not inclined to interfere with the punishment imposed on the petitioner either at the first level or by the impugned G.O.

12.That apart, the petitioner in the capacity of appointing authority for the post of Office Assistant in Government Industrial Training Institute at Paramakudi, is bound to know the legal procedure and it is the bounden duty of the petitioner to read the contents of the counter-affidavit before signing and attesting its contents. In addition to that, the impugned G.O came to be passed by the appellate



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disciplinary authority only in consultation with the Tamil Nadu Public Service Commission wherein it had opined that due process of scrutinizing the documents and facts in the counter-affidavit was not done by the higher officials of the Department before filing it and it is also pertinent to note that despite the said observation, the Tamil Nadu Public Service Commission had recommended punishment of increment cut for a period of three years without cumulative effect to be imposed on the petitioner. Only on that basis, the appellate disciplinary authority has imposed the said punishment vide the impugned G.O(D)No.120, Labour, Welfare and Skill Development Department, dated 16.02.2023.

13. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

18.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

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L.VICTORIA GOWRI, J.

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