



W.P.(MD) Nos.12629 of 2014 and 14516 of 2011

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.(MD) Nos.12629 of 2014 and 14516 of 2011

A.Jeyaraj

... Petitioner in both petitions

-vs-

1.The Chief General Manager,
Bharat Sanchar Nigam Limited,
Tamil Nadu Circle,
Chennai-2.

2.The General Manager,
Bharat Sanchar Nigam Limited,
Madurai Telecom District,
Madurai-625 002.

3.The Deputy General Manager (New Services),
CTMX Building, Tallakulam,
Madurai-625 002.

4.The Registrar,
The Central Administrative Tribunal,
Madras Bench, Madras.

... Respondents in both petitions

PRAYER in W.P.(MD)No.12629 of 2014: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to the order made by the Hon'ble Administrative



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Tribunal, Madras in O.A.No.1105/2011, the fourth respondent herein, dated 13.03.2013 and quash the same consequently, direct the respondents 1 and 3 to grant promotion to the petitioner under BCR (Binial Cadre Review) scheme and extend all other monetary benefits.

PRAYER in W.P.(MD)No.14516 of 2011: Petition filed under Article 226 of the Constitution of India, to call for the records relating to the impugned order of the first respondent issued in his reference No.VIG/2-2058/09, dated 19.05.2010 and the impugned order of the Central Administrative Tribunal, Madras Bench, dated 29.09.2011 made in M.P.No.641 of 2011 and O.A.No. 1244 of 2011 and quash the same and direct the respondents to treat as the petitioner retired on superannuation on 30.06.2010 and to regularise the period of suspension as on duty and to pay all the consequential benefits, arrears, revised pension and other monetary benefits together with 12% interest for the 13 months delayed payment of terminal benefits and other facilities that are used to be paid to the retired employees.

For Petitioner (in W.P.(MD)No.12629 of 2014)
: Mr.K.K.Senthil Velan

For Petitioner (in W.P.(MD)No.14516 of 2011)
: Mr.S.Sukumaran

For Respondents : No Appearance for R1, R3 & R4

Mr.K.Govindarajan
Deputy Solicitor General of India for R2



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COMMON ORDER

[Order of the Court was made by D.BHARATHA CHAKRAVARTHY, J.]

These two writ petitions are by the same petitioner and are interconnected and therefore, are disposed of by this common judgment.

W.P.(MD)No.14516 of 2011:-

2. In this writ petition, the petitioner challenges the order of the Central Administrative Tribunal, Madras Bench, dated 29.09.2011 passed in M.A.No. 641 of 2011 and O.A.No.1244 of 2011.

3. The above original application is filed by the petitioner challenging the order dated 19.05.2010 whereby, the petitioner was imposed with a punishment of compulsory retirement. The miscellaneous application was filed to condone the delay of 123 days in filing the original application. The Tribunal by the order impugned in the writ petition has dealt with the original application on merits. However at the same time in paragraph 3 it has held that it does not find any convincing reasons to condone the delay of 123 days and dismisses the miscellaneous application. Such a view of the Tribunal is



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erroneous in law. We reverse the findings in paragraph 3 of the order and hold that the petitioner has explained by sufficient cause the delay of 123 days and condone the delay in filing the original application and as such the M.A.No. 641 of 2011 shall stand allowed.

4. Now considering the order passed in the main original application in O.A.No.1244 of 2011, it is seen that the petitioner was working as a Section Supervisor with the respondent Corporation and a charge memorandum dated 05.10.2007 was served on the petitioner under Rule 3(b) of Bharat Sanchar Nigam Limited (Conduct, Discipline & Appeal) CDA, 2006. The three charges against the petitioner are that firstly he had made a trip to the United States of America during the month of January-February 2006 without proper permission. The second charge is that even after he was denied permission, again in the month of November 2006, he had made a trip to the United States of America. The third charge against the petitioner is that he had taken an advance of Rs.6,000/- on 23.09.2006 for availing Leave Travel Concession and submitted a bill for a sum of Rs.6,879/- for the journey to Mumbai along with his family members, but however, it turned out that he did not undertake the journey and had cancelled the tickets and thus had made a false LTC claim.



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5. The petitioner submitted an explanation on 27.10.2007 denying the charges. It is his case that on account of medical emergency, he had to visit the United States and as far as the LTC claim is concerned, that he has voluntarily repaid the amount. The Disciplinary Authority did not accept the explanation of the petitioner and appointed an Enquiry Officer who after a detailed oral enquiry, submitted a report on 31.01.2009. The Enquiry Officer found that all the three charges stood proved. Thereafter, a second show cause notice was issued. The petitioner submitted his further explanation and by an order dated 09.06.2009, the Disciplinary Authority exonerated the petitioner of all the three charges. However, the first respondent being the Reviewing Authority, initiated *suo motu* review, proposed to disagree with the findings of the Disciplinary Authority and issued a show cause notice to the petitioner herein on 30.03.2010. The petitioner submitted a detailed representation on 23.04.2010. After considering the representation, the Reviewing Authority held that in respect of charge under Article 2, he has not even denied the fact that he was refused permission and thereafter, he went to the United States in the month of November 2006. The Reviewing Authority further considered the fact that the charge official did not even have anything to say against the third charge and he has only stated that he has voluntarily repaid the amount claimed by him. After considering the same, the Reviewing Authority imposed



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a punishment of compulsory retirement from service. Aggrieved by the same, the original application was filed, which was dismissed by the Tribunal.

6. Mr.K.K.Senthilvelan, the learned Senior Counsel appearing on behalf of the petitioner would submit that the Reviewing Authority exercising the power of *suo motu* revision, imposed a harsh punishment of compulsory retirement just 26 days before his actual date of superannuation on account of which, the petitioner could not be promoted to the next higher post. He would further submit that only on account of the medical emergency, the petitioner had to visit the United States of America and even in respect of the LTC, he has voluntarily refunded the amount. Therefore, considering the facts and circumstances in detail, the Disciplinary Authority has exonerated him. Even if the Reviewing Authority found that the exoneration is incorrect, imposition of the punishment of compulsory retirement was disproportionate and unwarranted. Therefore, he would pray that the writ petition be allowed and the order of the Tribunal be set aside and the petitioner be exonerated of the charges.

7. Per contra, Mr.K.Govindarajan, learned Deputy Solicitor General of India appearing on behalf of the second respondent would submit that the punishment has been imposed by following the due procedures. The petitioner



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could not even deny the ingredients of the charge and therefore, there is no ground for this Court to interfere.

8. We have considered the rival submissions made on either side.

9. The power of this Court to interfere in matters of disciplinary enquiry is no longer *res integra* as unless the order is perverse or violative of the rules or procedures or without affording opportunity to the delinquent official, this Court cannot interfere in the same. Similarly, unless the punishment is shockingly disproportionate to the charges levelled, the same cannot also be interfered.

10. In this background, if the contentions of the learned counsel is taken into account, it can be seen that the petitioner has not alleged any procedural violation or non affording of any opportunity by the respondents. Charges were duly framed, enquiry has been duly conducted and the evidence of the witnesses have been recorded, based on which, the ultimate findings have been arrived at.

11. In that view of the matter, we are unable to find any ground for interference with the order of the revisional authority, especially, when he has



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powers to take a *suo motu* review and reverse the order of the Disciplinary Authority. In view of the charge which includes making a false claim of Leave Travel Concession, we also cannot hold that the punishment is shockingly disproportionate to the charges levelled. In that view of the matter, we are unable to agree with any of the submissions made by the learned Senior Counsel and accordingly, finding no merits, this writ petition in W.P.(MD)No. 14516 of 2011 is dismissed. No costs.

W.P.(MD)No.12629 of 2014:-

12. By this writ petition, the petitioner is challenging the order of the Hon'ble Central Administrative Tribunal, Madras in O.A.No.1105/2011, dated 13.03.2013. The original application was filed by the petitioner for a direction to the respondents to promote him with effect from 20.07.2003 under BCR scheme on which date, he completes 26 years of service and for further or other orders.

13. The Central Administrative Tribunal considered the fact that he completed 26 years of service as on 20.07.2003. But however as on that date, he was involved in a criminal case and was suspended from service on 22.06.2003. Therefore, his case was considered and was kept in a sealed



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cover. Ultimately, eventhough he was acquitted in the criminal case, the departmental proceedings ended in punishment by which, he was imposed with a punishment of compulsory retirement. Therefore, there was no question of opening the sealed cover and granting the consequential promotion. On that score, the original application was dismissed.

14. By the preceding portion of this order, we have upheld the order of the Central Administrative Tribunal and confirmed the punishment imposed on the petitioner. In that view of the matter, the consequential claim of promotion in this original application and the writ petition is bound to fail as the petitioner was not ultimately exonerated of the charges.

15. In the result, this Writ Petition in W.P.(MD)No.12629 of 2014 is also dismissed. No costs.

[S.S.S.R., J.] [D.B.C., J.]

04.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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D.BHARATHA CHAKRAVARTHY, J.

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To:

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