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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 21.11.2023

DELIVERED ON: 31.01.2024

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.Nos.1138, 2575 & 2993 of 2012

G.Srinivasan
Junior Engineer,
Tamil Nadu Municipal Engineering and Water Works Service,
Now on deputation at
Coimbatore City Municipal Corporation,
Coimbatore – 641 001. ...Petitioner in W.P.No.1138/2012

D.Kausalya ...Petitioner in W.P.No.2575/2012

R.Mahalingam ...Petitioner in W.P.No.2993/2012

vs.

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Fort St.George,
Chennai – 600 009.

2.The Commissioner of Municipal Administration,
Chepauk, Chennai – 600 005.

3.The Commissioner,
Pollachi Municipality,
Pollachi, Coimbatore District. ...Respondents in all petitions

4.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore. ...Respondent in W.P.No.1138/2012

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Prayer in W.P.No.1138/2012: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned punishment order issued by the 1st respondent in G.O.(D)No.518, MAWS Department, dated 29.12.2011 and the consequential order passed by the 4th respondent in Na.Ka.No.11797/2011/MR1, dated 30.12.2011 and to quash the same.

Prayer in W.P.No.2575/2012: Writ 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 passed in G.O.(D)No.517, Municipal Administration and Water Supply Department dated 29.12.2011 on the file of the first respondent, quash the same and consequently direct the respondents to reinstate the petitioner into service with all consequential attendant benefits.

Prayer in W.P.No.2993/2012: Writ 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 passed in G.O.(D)No.515, Municipal Administration and Water Supply (ME.4) Department dated 29.12.2011 on the file of the first respondent, quash the same and consequently direct the respondents to settle all the terminal benefits, including pension and arrears of pension with all consequential attendant benefits.

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For Petitioners : Mr.R.N.Amarnath in W.P.Nos.2575 & 2993/2012

: Mr.T.Ranganathan in W.P.No.1138/2012

For Respondents in all petitions : Mr.A.M.Ayyadurai for R1 & R2
Government Advocate

Mr.G.Sankaran, Senior Counsel for R3
for Mr.S.Neduchezhiyan

Mr.Najeeb Khan for R4 in W.P.No.1138/2012

C O M M O N O R D E R

These Writ Petitions have been filed challenging the impugned punishment orders issued by the first respondent in G.O.(D) Nos.518, 517 & 515, Municipal Administration and Water Supply Department, dated 29.12.2011 and the consequential order passed by the fourth respondent in Na Ka No.11797/2011/MR1, dated 30.12.2011 and to consequently direct the respondents to reinstate the petitioner in W.P.No.2575 of 2012 into service with all consequential attendant benefits and to direct the respondents to settle all the terminal benefits, including pension and arrears of pension with all consequential attendant benefits to the petitioner in W.P.No.2993 of 2012.

2.Since the *lis* raised in these Writ Petitions are one and the same all were heard together and disposed of by a common order.

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3.Heard, Mr.T.Ranganathan, learned counsel appearing for the petitioner in W.P.No.1138 of 2012 and Mr.R.N.Amarnath, learned counsel appearing for the petitioners in W.P.Nos.2575 & 2993 of 2012. Mr.A.M.Ayyadurai, learned Government Advocate, appearing for the respondents 1 & 2 in all the Petitions, Mr.G.Sankaran, learned Senior Counsel appearing for Mr.S.Neduchezhiyan, learned counsel appearing for the third respondent in all the Petitions and Mr.Najeeb Khan, learned counsel for the fourth respondent in W.P.No.1138 of 2012.

4.Mr.T.Ranganathan, learned counsel appearing for the petitioner in W.P.No.1138 of 2012 would submit that the petitioner was appointed as Works Inspector in Pollachi Municipality dated 01.11.1995 on compassionate grounds. He would contend that the petitioner was promoted as a Draughtsman in 1997 and subsequently as Junior Engineer in 2004. He would submit that the petitioner was charged with a charge memo in Na.Ka.No.C1/7/26/2001, dated 17.07.2001, while he was in service of Pollachi Municipality from 1997 to 2000 and the same was served on to the petitioner on 08.08.2001. He would submit that the petitioner has given his explanation dated 20.08.2001 along with the details showing the settlement of Indravikas Patram to the parties concerned to the tune of Rs.24,050/-, and the same was accepted by the Disciplinary Authority and no further action was taken by the Commissioner on the charge memo dated 17.07.2001.

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5.He would submit that during enquiry and Disciplinary Proceedings there was no document produced to show that the petitioner being the Draughtsman alone was responsible for misappropriation of the IVP bonds, and there were no evidence to prove that the security bonds were removed from the possession of the petitioner. He would submit that the entries were verified and counter singed by the Assistant Engineer, Assistant Executive Engineer and then the IVP Bonds would be handed over to the cash section for custody, this was confirmed by the statement given by P.W.16, who was the Manager of Pollachi Municipality. He would submit that the order of punishment of removal from service issued by the first respondent in G.O.(D) No.518, MAWS Department, dated 29.12.2011 and the consequential order issued by the Coimbatore City Municipal Corporation in his proceedings Na.Ka. No. 11797/ 2011/MC1 dated 30.12.2011 are illegal and liable to be interfered with.

6.Mr.R.N.Amarnath, learned counsel appearing for the petitioners in W.P.Nos.2575 & 2993 of 2012 would submit that the petitioner in W.P.No.2575 of 2012 was appointed as a Junior Assistant on 09.08.1985 and the petitioner was promoted to the post of Assistant on 13.11.2000 and was posted as Cashier in the third respondent Municipality and was given additional charge to work in 'B1' seat of the Accounts Section. He would contend that during the year 1999-2000 when the new accounting system was introduced, the

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Cash Section responsibility was not allocated to the petitioner and she was transferred from the post of Cashier to the post of Revenue Inspector on 20.07.2001.

7.He would submit that one C.K.Gopalan was working as Shroff from the year 1989 till 03.11.1999, thereafter one Mahalingam assumed charge and worked till 29.12.2011 in the third respondent Municipality. He would submit that in the post of Cashier, one Natarajan was posted in the year 1997 till 31.01.1999, after which the post remained vacant till 13.11.2000. He would further submit that one Srinivasan, who was working as a Draughtsman in the Engineering Section was transferred to Gobichettipalayam on 09.10.2000. He would contend that it was the Draughtsman in the Engineering Section, who has to receive IVPs from the Contractors and make appropriate entries in the records and the IVP's have to be handed over to the Shroff for safe custody.

8.He would further submit that the said Srinivasan came to the office of the third respondent and sought to handover the records to the petitioner herein including the IVPs which were collected after the year 1998, the petitioner had refused to receive the same but it was represented to the petitioner that the IVP bonds have been subjected to audit namely Local Fund Audit, hence the petitioner had received the IVP bonds based on the records audited and counter-

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signed by the Assistant Director of Local Fund Audit on 18.06.2001. He would submit that the IVP's received by the petitioner had been immediately handed over to Mahalingam, who was a Shroff and the same were kept in his custody in the bureau in Shroff's room and thereafter, the petitioner was transferred to the post of Revenue Inspector.

9.He would submit that subsequently one Kumaresan was posted as Cashier in the third respondent Municipality on 19.09.2001 and as per the instructions, the petitioner had handed over the charges on 14.06.2002. He would further submit that when the IVP's was taken back from the custody of Shroff, which was handed over by the petitioner on 18.06.2001, it was found that 30 IVP bonds had been missing. He would contend that on enquiry, it was found that the Shroff has returned IVP's to the contractors on instructions from the third respondent as well as the Accountant, for which Rajagopal, Office Assistant had obtained acknowledgment from the contractors. He would contend that on verification of the records, there were acknowledgment for 21 bonds out of 30 and for the remaining 9 bonds, it was stated that the same were handed over to the Contractors without obtaining acknowledgment.

10.He would further submit that when the same was verified, it was found that the Contractor namely M/s.Latha and Co. had received the IVP's from the

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third respondent Municipality. He would submit that the petitioner was issued with a charge memo dated 16.12.2002 by the third respondent with reference to the 9 IVP bonds having a value of Rs.6,750/-. He would submit that the petitioner had given her detailed explanation by referring to the fact that the petitioner had received the IVPs on 18.06.2001 and the same were handed over to Mahalingam/Shroff on the same day to be kept with the Shroff's room, therefore, Mahalingam alone is liable and responsible for the missing IVPs.

11.He would submit that there is no evidence against the petitioner for having connived with other Officials for removal of Postal Savings Certificates or IVPs from the custody of the third respondent Office, the petitioner was merely implicated for the reason that she was holding the post of Cashier for a brief period, that too, the said period is not related to the charges framed by the Tribunal for Disciplinary Proceedings, Coimbatore inasmuch as the IVPs having a face value of Rs.1,95,730/- are taken only upto the year 1998. He would submit that the petitioner is no way involved in the alleged charges warranting imposition of major punishment of removal from service.

12.Mr.R.N.Amarnath, learned counsel appearing for the petitioner in W.P.No.2993 of 2012 would submit that the petitioner/R.Mahalingam was appointed as a Bill Collector on 06.01.1975 and promoted to the post of Junior Assistant (Shroff) on 02.11.1999 in the third respondent/Municipality. He would

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submit that the petitioner was promoted as a Junior Assistant from 1999, in which post the petitioner holds till his date of retirement viz., 31.12.2011. He would contend that when the petitioner was appointed as a Junior Assistant, he was not handed over with any of the charges by his predecessor, especially the IVP bonds which were said to have been received from the Contractors.

13.He would submit that the petitioner had given his detailed explanation on 20.01.2003 stating that when the petitioner had taken charge as Junior Assistant, the IVP bonds, which are listed in the letter dated 21.08.2002 were never handed over to the petitioner, hence, he will not be responsible for any missing of the bonds and that the petitioner had entrusted the IVP bonds to the Office Assistant with a direction to make appropriate entries in the Register before returning it to the Contractors. He would submit that with regard to the IVP bonds which were entrusted to the petitioner after which he had taken charge as a Junior Assistant, they were returned to the Contractors with acknowledgment and therefore, there is no loss caused to the Municipality.

14.Further, the common thread of contention of the petitioners are that there are certain procedures that will be followed in all Municipalities for maintenance of the Tender Register and others, such as the Contractors will submit Indravikas Patram or other Saving Certificates as EMD along with the

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Tender Form and if it is paid by cash, the cash receipt will be enclosed, only the Indravikas Patram or other Saving Certificates submitted by the successful bidder will be retained by making entries in the connected Tender Registers maintained by the Engineering Section. He would contend that after making such entries, the Indravikas Patram or other Saving Certificates will be sent to the Cash Section for custody and the Cash Section has a locker with a double key system. He would submit that finally if the work is over, the bill will be settled for the work, the Indravikas Patram or other Saving Certificates submitted as EMD will also be returned by the Bill Settling Authority from the Cash Section.

15.Further in view of the complaints made by some of the Contractors to the Vigilance and Anti-Corruption Department, with regard to non-return of IVP bonds, prior to 1998, in the third respondent Municipality, the matter was referred to the Tribunal for Disciplinary Proceedings, Coimbatore and the Tribunal had framed charges against the petitioners and two others. The charges are that the Officers have connived with one another and removed the Postal Savings Certificates and IVP bonds, which were submitted by the Municipal Contractors towards EMD etc., and encashed the above certificates at the lowest rate than the value of the certificates with the help of the local money lenders and accordingly, they had misappropriated a sum of Rs.1,95,730/-. The charges

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have been framed on the basis of Audit Report of the year 2001-2002 which states that on perusal of the records relating to the period from 1966 to 1998, it was found that there was no acknowledgment for the return of IVPs in respect of number of bonds stated therein over the period from 1983 to 1988, having total value of Rs.1,95,730/- and that the IVP bonds stated to have been missing without proper acknowledgment would be with reference to the period from 1983 to 1988.

16.On 16.12.2002, a charge memo was issued to the petitioners by the third respondent with reference to the IVP bonds. The charges framed against the petitioners were that (i) instrumental for the theft of the IVP bonds, which are described in the letter dated 21.08.2002 of the Assistant Director of Local Fund Audit, Pollachi Municipality (ii) entrusted the IVP bonds for the purpose of returning the same to Rajagopal, Office Assistant without the prior permission of superiors (iii) instrumental in Rajagopal, Office Assistant selling the IVP bonds for a value lesser than the bonds and (iv) caused loss to the Municipality to the tune of Rs.1,95,730/- being the value of the missing IVP bonds.

17.After the enquiry, the Tribunal for Disciplinary Proceedings forwarded its Report to the first respondent in the year 2007 and the Enquiry Report was to the effect that the accused Officer No.1, Rajagopal, Office Assistant had pledged

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or sold out some IVP bonds and with regard to Srinivasan, Draughtsman, it was observed that he has failed in his responsibility for not having received the securities under proper acknowledgment and handed over the same to the Cash Section. With regard to Kausalya and Mahalingam, they were responsible for the loss of IVP's. The AO-1 to AO-5 were awarded with the punishment of removal from service in the impugned order dated 29.12.2011, invoking Rule 3 (8) of Tamil Nadu Municipal Service (Disciplinary and Appeal) Rules, 1970. Aggrieved against the order of punishment, the petitioners have filed these Writ Petitioners to set aside the orders dated 29.12.2011 passed by the first respondent and to allow these Writ Petitions.

18.The further contentions is that there are five Officers who were proceeded with and that the Tribunal for Disciplinary Proceedings had given a specific finding that the first accused Officer was the person who was responsible for misusing the IVPs. However, it had given a specific finding that as regards the accused Officers 2, 4 & 5, there were no such findings. However, they had retained the IVPs in their custody providing a scope for misuse for personal gains. Similarly, with regard to the third accused Officer, he had failed to give proper acknowledgment for the receipt of securities. The petitioners had commonly contended that the fourth accused Officer who was the Shroff in whose custody the IVPs was supposed to be kept was let off with a minor

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punishment. Learned counsel for the petitioners would submit that the petitioners being accused Officers 2, 3 & 5 ought not to have been discriminated and they also ought to have been inflicted with a similar punishment that had been inflicted upon the fourth accused Officer.

19.Countering his arguments, Mr.G.Sankaran, learned Senior Counsel appearing for the Municipality would submit that the petitioner in W.P.No.1138 of 2012 was appointed as a Work Inspector in Pollachi Municipality on 01.01.1995 on compassionate grounds. Thereafter, he was promoted to the post of Draughtsman in the year 1997. Learned Senior Counsel would contend that the petitioner who was employed as Draughtsman in Engineering Section, has failed to maintain the Register and the receipt of IVP's bonds from the Contractors and the petitioner had not handed over IVP bonds for a value of Rs.24,050/- to the Municipality nor pledged the IVP bonds in the name of Commissioner of Pollachi Municipality and thereby the petitioner has committed serious irregularities.

20.Learned Senior Counsel would submit that the petitioner was issued with a charge memo in Na Ka No C1/7126/2001, dated 17.07.2001, for which the petitioner had also submitted his explanation on 20.08.2001. Learned Senior Counsel would further submit that a complaint had lodged before the

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Commissioner for Disciplinary Proceedings, Coimbatore, against the Officials of Pollachi Municipality for the irregularities committed by way of removal of Postal Savings Certificate from the Office and encashed it with the help of local money lenders. As a result, the petitioner was issued with a charge memo by the Commissioner of Disciplinary Proceedings, Coimbatore under the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules, 1955, dated 31.05.2005.

21.Learned Senior Counsel would further submit that the Commissioner for Disciplinary Proceedings, Coimbatore had conducted an enquiry and submitted Report holding that the charge against the petitioner were held proved, after affording an opportunity to the petitioner, the first respondent passed orders in G.O.(D) No.518, Municipal Administration and Water Supply Department, dated 29.12.2011, imposing a punishment of removal from service as the petitioners has caused monetary loss to the Municipality.

22.Learned Senior Counsel would submit that the petitioner in W.P.No.2575 of 2012 was given promotion to the post of Assistant on 13.11.2000 and posted as Cashier, subsequently, the petitioner was transferred to the post of Revenue Inspector on 20.07.2001 in the third respondent Municipality. Learned Senior Counsel would further submit that the petitioner

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herein was issued with a charge memo dated 16.12.2002 as she has not handed over 9 IVP bonds with a total value of Rs.6,750/- while handing over charges to her reliever on transfer to the post of Revenue Inspector. Learned Senior Counsel would submit that the IVP and NSC bonds ought to have to be kept in safe custody in the Cash Section whenever a person is posted in the post of Cashier, he/she has to assume charges by taking over charge from the reliever. Similarly, if transferred from the post of Cashier, the incumbent should have handed over the charges to the newly posted person.

23.Learned Senior Counsel would submit that when the petitioner was transferred from the post of Cashier on 20.07.2001, she had not handed over charges to anybody and left the bonds under the custody of the then Cashier Mahalingam. Subsequently, when one Kumaresan took charges on 09.09.2001, the petitioner handed over charges to Kumaresan, in which 9 bonds were found missing having total value of Rs.6.750/- for which no acknowledgement was obtained from the Contractors. He would further submit that during the audit by Local Fund Audit Department held in the year 2001-2002, it was found that IVP bonds having total value of Rs.1,95,730/- pertains to 2001-2002 have been removed with *malafide* intention and ulterior motive by the petitioner for which the petitioner was issued with a charge memo dated 16.12.2002 for not handing over the Postal Saving Certificate for Rs.6,750/-. Learned Senior Counsel would

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further submit that the petitioner being the Cashier at the relevant point of time is also responsible for removal of Postal Savings Certificate with ulterior motive.

24.Learned Senior Counsel would submit that the petitioner in W.P.No.2993 of 2012 was appointed as a Bill Collector on 06.01.1975 and he was promoted to the post of Junior Assistant (Shroff) on 02.11.1999. The Petitioner herein was issued with a charge memo by the Commissioner, Pollachi Municipality on 16.12.2002, alleging that he was responsible for the theft of IVP bonds. Learned Senior Counsel would further submit that as stated in the letter dated 01.08.2002 to the Assistant Director of Legal Fund Audit, Pollachi, the petitioner R.Mahalingam was responsible in handing over the IVP bonds to K.Manikandan, Contractor. But, the petitioner was instrumental for stealing all IVP's by P.Rajagopal, Office Assistant as the petitioners had handed over the keys of the bureau in which IVP's were kept and it was under his custody and the petitioner had caused loss to the Municipality to the tune of Rs.1,95,730/- being the value of missing IVP bonds.

25.Learned Senior Counsel would further submit that the petitioner herein was responsible for the custody of IVP Bonds which had to be kept in safe custody and to be returned to the Contractor based on the orders of Commissioner, Pollachi Municipality after getting proper acknowledgement.

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Learned Senior Counsel would further submit that the Petitioner was keeping the IVP Bonds under his custody the IVP bonds were found missing and not properly returned to the Contractors with due acknowledgement. Learned Senior Counsel would further submit that if the petitioner ought not have permitted Rajagopal, Office Assistant by handing over the keys of the bureau, these bonds would have not been stolen by the Office Assistant. Learned Senior Counsel would contend that the petitioner became responsible for removal of IVP bonds by Rajagopal and encashed at the lowest rate than the value of the certificates/bonds with the help of local money lenders. Learned Senior Counsel would submit that all the petitioners were given reasonable opportunities to defend themselves.

26.Learned Senior Counsel would submit that based on the evidence in the enquiry, it is proved that the accused officers i.e., AO-1 to AO-5 have indulged in malpractices and have not adhered to the prescribed procedures prevailed in the Municipalities and the petitioners herein in their official capacity of holding the office were held liable for the misconduct and they were all found guilty. Therefore, the punishment imposed by the first respondent is correct and does not warrant any interference of this Court, hence seeks to dismiss these Writ Petitions.

27.Mr.A.M.Ayyadurai, learned Government Advocate appearing for the respondents 1 & 2 would submit that he has adopted the arguments of the

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learned Senior Counsel appearing for the Municipality and would further submit that there is no discrimination in the punishment that had been imposed upon the petitioners for seeking interference of this Court.

28.I have considered the rival submissions made by the respective counsel appearing on either side.

29.The petitioners herein have been arrayed as accused Officers 2, 3 & 5. Even though they had raised a preliminary issue on the ground of jurisdiction of the Tribunal to proceed with the Disciplinary Proceedings as against the petitioners, I am of the considered view that the said issue need not be gone into in these Writ Petitions for the simple reason they had participated in the proceedings without raising the said issue. Had they been aggrieved against the jurisdiction, when the summonses were issued by the Tribunal for Disciplinary Proceedings, they should have approached this Court at the first instance itself.

30.The files have been produced by the learned Senior Counsel appearing for the Municipality, I have also perused the same.

31.The Tribunal for Disciplinary Proceedings after conducting the enquiry had given its factual findings as against the accused Officers who have been charged before it. For better appreciation of the case of the respective parties, the

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same is extracted hereunder:

"For instance AO-1, Tr.Rajagopal had pledged or sold out some IVP bonds and these IVPs were recovered back. Though the version given by PW-2 Tr.Manikandan, PW-6 Tr.Arumugam, PW-7 Tr.Kamaraj are not of very high standard of acceptance, it is adequate to lead to interference of some "inappropriate dealings" in IVP bonds with the aid and assistance of Municipal Officials at the lower level and unmistakebly there is evidence to believe that AO-1 was in possession of certain IVPs that were entrusted to the Municipality and that they were sold or pledged for some pecuniary benefits with utter regard to all canons of official ethics and human behaviour.

Interestingly the contractors version cannot be fully accepted in total as it bristles with vital contradictions. It gives a feeling that some contractors themselves might have been benefitted by such non-adherence of prescribed procedure and might have hood-winked with municipal officials. That cannot be an excuse to leave the culprits go scot-free. However the objective of the inquiry is to find out whether AOs are guilty or not of the allegations made in the charge memo. As regards AO-1, few instances of sales or pledging of IVPs and the document that he has created in his own handwriting by mentioning the IVP numbers clearly are available and adequate to substantiate the serious charge levelled against AO-1.

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The explanation offered by AO-2 are only in the nature of disowning the physical and moral responsibility. However, the very fact that on receipt of charge memo issued by the Municipal Commissioner, AOs 2, 4 and 5 have handed over the IVPs to the office after registering them in the new registers and this proves that they failed in their duties and kept the IVPs under their custody, providing scope for their misuse for personal gains.

AO-3 being the Draftsman in the Engineering wing who is supposed to receive the securities under proper acknowledgement and hand them over to cash section and later return the securities to the contractors under acknowledgement, has failed in his primary responsibility and any amount of explanation given by him at this stage can be regarded only as an after thought to escape from the official responsibility and an out-come of the charge framed against him."

32.From a reading of the said findings extracted supra, the Tribunal for Disciplinary Proceedings had given a specific finding that the accused Officers 2, 4 & 5 had handed over the IVPs to the office after registering them in the new registers which proved that they had failed in their duties and kept the IVPs under their custody which provides scope for their misuse for personal gains. It is not a finding of the Tribunal for Disciplinary Proceedings that the said Officers had misused the IVPs in their custody.

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33.It is to be noted that the fourth accused Officer C.K.Gopalan who have also been found guilty of the said charge was imposed with a punishment of cut-off Rs.500/- in his pension per month that too for a period of only one year. In such circumstances, the accused Officers 2 & 5 who are the petitioners in W.P.Nos.2575 & 2993 of 2012 viz., Kausalya & Mahalingam also ought to have been imposed with a similar punishment.

34.As rightly pointed out by the learned counsel appearing for the petitioners, this Court comes to a irresistible and inevitable conclusion that the petitioners cannot be discriminated & that is by applying the Doctrine of equality, this Court is of the view that a similar punishment imposed on C.K.Gopalan who was the fourth accused Officer should also be inflicted on the petitioners since the findings of the Tribunal on all of them is one & the same.

35.As regards the petitioner in W.P.No.1138 of 2012, it is to be seen that he had been working as a Draftsman in the Engineering Wing who was supposed to receive the sureties under proper acknowledgment and hand over the same to the Cash Section for it to be later returned to the Contractors. It is not the case of the Department that he had been instrumental in misuse of IVPs by the first accused Officer. Further, it is not the case of the Department that he had not handed over the IVPs to the Department/Cash Section. The only charge

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against him is that he had not received it with proper acknowledgment. The said petitioner stands on a better footing than the other petitioners as it is not the case against him that he was withholding the IVPs. In such circumstances, the punishment imposed against him is shockingly disproportionate and discriminatory. I am of the view that the said petitioner should be inflicted with much lesser punishment than that had been awarded to the fourth accused Officer C.K.Gopalan.

36.In view of the above, I am inclined to set aside the orders impugned in these Writ Petitions.

37.Since the Government had already taken a decision to impose a punishment of cut in pension of Rs.500/- per month for a period of one year in respect of the fourth accused Officer viz. C.K.Gopalan and the petitioners in W.P.Nos.2575 & 2993 of 2012 had also been given a finding of similar delinquency as that the fourth accused Officer and also taking into consideration the said petitioners had also superannuated and considering the delinquency, I also impose a similar punishment of cut in pension of Rs.500/- per month for a period of one year in respect of the others petitioners also.

38.As regards to the petitioner in W.P.No.1138 of 2012, it is seen that that the petitioner is still in service and the petitioner stands on a better footing than that of the other petitioners as it is not the case of the Department that he

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had withheld the IVPs in his custody. The only charge is that he had not given proper acknowledgment on receipt of these IVPs. In such circumstances, the said petitioner is imposed with a punishment of censure and in future, the same would be viewed seriously.

39.In fine, the Writ Petitions are allowed and the orders impugned in these Writ Petitions are set side and the punishments as indicated supra are imposed on the petitioners. The respective petitioners shall be reinstated in service and pay all monetary and other attendant benefits. There shall be no order as to costs.

31.01.2024

Index: Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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K.KUMARESH BABU, J.

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To

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Fort St.George,
Chennai – 600 009.

2.The Commissioner of Municipal Administration,
Chepauk, Chennai – 600 005.

3.The Commissioner,
Pollachi Municipality,
Pollachi, Coimbatore District.

4.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore.

A pre-delivery common order in
W.P.Nos.1138, 2575 & 2993 of 2012

31.01.2024

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