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W.P. No. 12401 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

**CORAM
THE HONOURABLE MR. JUSTICE C. KUMARAPPAN**

W.P. No. 12401 of 2013

A. Ram Mohan

... Petitioner

Versus

1. The Agricultural Production Commissioner &
Secretary to Government,
Agricultural Department,
Fort St. George,
Chennai – 600 009.

2. The Commissioner for Disciplinary Proceedings,
O/o. The Tribunal for Disciplinary Proceedings,
Trichy.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in pursuant to the impugned order passed by the first respondent in his proceedings bearing G.O.(3D) No.87 dated 18.04.2011 and quash the same and to consequently direct the respondent to grant all the service benefits as available to the petitioner.

For Petitioner : Mr. G. Ilamurugu

For Respondents : Mr. S. John J. Raja Singh
Additional Government Pleader for R1

ORDER



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The petitioner has challenged the punishment imposed against him in G.O.(3D) No. 87 dated 18.04.2011 by issuing an order of Certiorarified Mandamus to quash the said G.O.

2. The brief facts which are necessary for disposal of this writ petition is that, the petitioner was appointed as an Agricultural Officer (Extension), in the year 1982. When he was working as an Extension Officer, he has committed some misconduct and he was served with the charge memo on 05.06.2000. According to the charge memo, he has been charged for the misconduct of fabricating false document, as if certain Government welfare measure had been given to non-existing person. After receipt of the charge memo, the petitioner submitted his explanation and an enquiry was conducted against him.

2.1. On completion of the enquiry, the enquiry officer has submitted his report on 23.10.2003. On submission of the enquiry report, the copy of the enquiry report was served upon the petitioner and the disciplinary authority has passed the impugned order on 18.04.2011 imposing a punishment of stoppage of increment for a period of three years without cumulative effect and for recovery of sum of Rs.8,009/-. Such order is under challenge by way of this writ petition.



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3. Learned counsel for the petitioner would vehemently submits that the petitioner was the person who brought such misconduct to the knowledge of the Department even in the year 1993, whereas, the disciplinary authority without even taking into consideration of his complaint, has falsely framed him and has issued a charge memo, on the alleged fictitious misconduct. Whereas, the petitioner did not commit any of the said misconduct and that the allegations made in the charge memo would not at all comes within his duties and responsibilities. Therefore, it is contention of the learned counsel for the petitioner that the charges are meritless and the punishment is liable to be set aside.

3.1. It is also the contention of the learned counsel for the petitioner that though charge memo was issued during 2000, the punishment has been imposed in the year 2011. Therefore, such inordinate delay in conducting the enquiry as well as imposing punishment has caused prejudice to the petitioner. Therefore, contended that on this score also the impugned order is liable to be set aside. It is the further contention of the learned counsel for the petitioner that the enquiry report has not at all been furnished. Therefore, it is their contention that the very punishment imposed against him has no legs to stand.



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Hence, prayed to allow the writ petition.

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4. Per contra, the learned Additional Government Pleader for the first respondent would vehemently contend that there was no delay at all and charge memo was issued in the year 2000, and the enquiry report has been submitted by the enquiry officer during 2003, and on following due procedure, the punishment has been imposed in the year 2011. Therefore, contended that on the face of it, there is no inordinate delay and apart from that even if there is any delay, the petitioner did not project any prejudice. Therefore, in the absence of any prejudice, the delay will in no way favour the petitioner. The learned Additional Government Pleader further submits that the submissions made by the petitioner that he was not served with enquiry report is contrary to his own document, qua, the letter issued by the Commissioner of Agricultural on 15.03.2007, through which the petitioner has been served with the enquiry report.

4.1. The learned Additional Government Pleader would further submit that, the challenges which has been made in the writ petition by the petitioner cannot be adjudicated under Article 226 while exercising the power of judicial review. It is his contention that while exercising the power of judicial review,



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this Court cannot go into the factual aspect by re-appreciating the evidence.

Thus, the learned Additional Government Pleader would submit that there is no merits in the writ petition and prayed to dismiss the same.

5. I have given my anxious consideration to either side submission.

6. The foremost contention raised by the learned counsel for the petitioner is that, the delay. It is pertinent to mention here that in the enquiry proceeding, the enquiry officer has examined 34 witnesses. Therefore, examining 34 witnesses would definitely take some reasonable time. Apart from that, though the learned counsel would vehemently submit that there was a delay, he was not in a position to submit that in what way such long delay has prejudiced the petitioner in conducting the enquiry and its impact in imposition of the punishment.

7. Therefore, this Court is of the view, that when the alleged delay has not caused any prejudice to the petitioner even if there is any delay, the same cannot be put against the respondent. In respect of delay, the learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court of India in *P.V. Mahadevan vs. M.D. Tamil Nadu Housing Board* reported in



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(2005) 4 CTC 403, to substantiate that the delay is fatal. But in our case, this

Court finds that the petitioner has not established the prejudice caused to him.

8. The next point urged by the learned counsel for the petitioner is that the entire enquiry report has not been furnished to the petitioner. In support of his contention, the learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in ***Punjab National Bank and Others vs. K.K.Verma***¹. In the above judgment, the Hon'ble Supreme Court has categorically held that it is the duty on the part of the disciplinary authority to give the enquiry report before obtaining the explanation, otherwise any decision taken in the absence of furnishing of enquiry report is unfair.

9. Absolutely, this Court has no grievance in respect of the proposition which has been submitted by the learned counsel for the petitioner. However, the learned Additional Government Pleader would invite the attention of this Court to the letter of Commissioner of Agricultural dated 15.03.2007 wherein, the Commissioner has furnished the entire copy of the enquiry report. If at all the petitioner has not received such an enquiry report, he would have sent representation to the disciplinary authority. Whereas, such representation is not at all available before this Court. Apart from that when there is a specific



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communication by the Commissioner of Agricultural about the furnishing of enquiry report, there is no ground to disbelieve such communication.

Therefore, even the other ground raised by the petitioner regarding non furnishing of the enquiry report has not been established.

10. It is pertinent to mention here that except these alleged lapses in the enquiry proceedings, the petitioner has not raised any other grounds. It is also pertinent to mention here that when the disciplinary authority has followed the due procedure by issuing charge memo, and obtaining the explanation and conducting enquiry by following natural justice, and on completion of the enquiry, furnishing the enquiry report, then this Court cannot go into the question of imposition of punishment, unless the same is shockingly disproportional to the gravity of the charge.

11. Here the delinquency is fabricating a document in the name of various person.



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12. In respect of the above charge, the punishment imposed by the disciplinary authority, cannot be termed as disproportionate. At this juncture, this Court would like to rely upon the judgment of ***B.C.Chaturvedi Vs. Union of India*** reported in ***(1995) 6 SCC 749***. In view of the above principle, unless there is a perversity in the order of the disciplinary authority, this Court cannot interfere with the same as appellate authority. Further, it is also made clear that while exercising the power of judicial review, proportionality of the same cannot be gone into. From the above narration, this Court could not find any merit in this writ petition.

13. In the result, this Writ Petition is dismissed. There shall be no order as to costs.

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Index :Yes/No
Neutral Citation :Yes/No
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C. KUMARAPPAN, J.

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