



WEB COPY



W.P.No.13743 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.13743 of 2011

S.Seshadri

....Petitioner

Vs

1. State of Tamil Nadu,
Rep by the Secretary to Government,
Home (Transport II) Department,
Secretariat, Chennai-9.

2. The Transport Commissioner,
Chennai -5.

....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 1st Respondent in G.O.(2D) No.314 Home (Tr.II) Department dated 21.06.2010 and quash the same and direct the respondents to confer all the consequential benefits on the petitioner.

For Petitioner : M/s.S.Thendral

For Respondents : Mr.D. Gopal
Government Advocate

ORDER



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The Writ Petition has been filed to call for the records relating to the order passed by the 1st Respondent in G.O.(2D) No.314 Home (Tr.II) Department dated 21.06.2010 and quash the same and direct the respondents to confer all the consequential benefits on the petitioner.

2. The learned counsel for the petitioner submitted that, petitioner joined as Night Watchman in Transport Department on 02.11.1988 and subsequently he was promoted as Record Clerk on 22.10.1999. While so, a charge memo under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules came to be issued on 17.08.2007 on the ground that, while he was working as Record Clerk at Regional Transport Officer, Tiruvannamalai he allowed a private individual to handle the office records and to do the official work. He submitted his detailed explanation denying the charges. Thereafter, enquiry was conducted. Enquiry Officer gave a finding that charges are not proved. However, the Disciplinary Authority reversing the enquiry report imposed punishment of " Stoppage of increment for two years with cumulative effect" in G.O.(2D).No.314 dated 21.06.2010. Challenging the said order, this Writ Petition is filed.



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3. It is further submitted by the learned counsel for the petitioner that, Enquiry Officer on the analysis of oral and documentary evidence found that the charges against the petitioner was not proved. However, reversing the finding the Enquiry Officer, the Disciplinary Authority imposed punishment of " Stoppage of increment for two years with cumulative effect" in G.O.(2D).No.314 dated 21.06.2010.

4. In reply, the learned counsel for the respondent submitted that, Enquiry Officer recorded the evidence of PW1 and PW2. They are District Inspection Cell Officer and Deputy Superintendent of Police, Vellore. They have no reason to give false evidence against the petitioner. From the evidence, it is clear that, petitioner engaged one Jayakumar to assist him in his Official Work. He was paid a sum of Rs.500/- as monthly salary as well. Neglecting their evidence, the Enquiry Officer relying on the evidence of the private individuals, who denied working there for salary, found that, charges against the petitioner was not proved and therefore, his finding was not accepted. The disciplinary authority applied its independent mind and found that, the evidence available was sufficient to prove the charges against the petitioner.



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5. Considered the rival submissions and perused the records. The charges against the petitioner is that, he allowed private individual one Jayakumar to carryout the Official Work assigned to him and for the said purpose, he was paid a sum of Rs.5,00/- as monthly salary. Naturally, the private individual, who was examined as PW3 denied the charges and he denied the allegation that he worked there for salary.

6. The Enquiry Officer found that the Investigating Officer should have seized the records alleged to have been handled by the private individual Jayakumar to prove the charges. The Enquiry Officer should have taken efforts to summon the documents to find out whether the Handwriting found in the documents are that of the petitioner or Jayakumar. Since no such effort was taken, Enquiry Officer found that the charges are not proved. This finding is not in tune with available evidence.

7. PW1 and PW2 had found during the search that, petitioner had engaged PW3 Jayakumar, a private individual to do his work for monetary consideration. PW1 and PW2 had no reason to give false evidence against the petitioner. No motive attributed to them for giving false evidence against the petitioner. Petitioner's conduct is against service rules and against law.



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Sensitive documents are handled by the Government Officials in Government Office. Permitting a third party to work on behalf of a Government Servant is an act of gross indiscipline and it is impermissible. Therefore, this Court finds that imposition of punishment of " Stoppage of increment for two years with cumulative effect" against the petitioner is just and appropriate. Therefore there is no need the quash the order passed by the 1st respondent in G.O.(2D) No.314 Home (Tr.II) Department dated 21.06.2010

6. Accordingly, this Writ Petition is dismissed. No costs.

25.03.2024

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To

1. State of Tamil Nadu,
Rep by the Secretary to Government,
Home (Transport II) Department,
Secretariat, Chennai-9.
2. The Transport Commissioner,
Chennai -5.

G.CHANDRASEKHARAN, J



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