



W.P.No.5338 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.5338 of 2021

C.S.Justin Rajesh

... Petitioner

Vs.

1.The Secretary to the Governor,
Raj Bhavan, Chennai 600 022.

2.The Deputy Secretary to Governor
and Comptroller,
Raj Bhavan, Chennai 600 022.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 15.12.2020 in Ref.No.432/G3/2020 passed by the first respondent and confirm the order dated 03.06.2019 in reference No.G1/0041/2018 by the second respondent and quash the same and consequently, direct the respondents to reinstate the petitioner with all benefits, backwages and continuity of service.

For Petitioner : Mr.V.R.Kamalanathan

For Respondents : Mr.S.Arumugam, GA for
Mr.T.Chezhiyan, AGP



W.P.No.5338 of 2021

ORDER

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This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 15.12.2020 in Ref.No.432/G3/2020 passed by the first respondent and confirm the order dated 03.06.2019 in reference No.G1/0041/2018 by the second respondent and quash the same and consequently, direct the respondents to reinstate the petitioner with all benefits, backwages and continuity of service.

2. Heard Mr.V.R.Kamalanathan, learned counsel for the petitioner, and Mr.S.Arumugam, learned Government Advocate for the respondents.

3. The petitioner was working as a House Keeper at Governor's Household, Raj Bhavan, Chennai and he was responsible for maintaining the inventory of stock of Governor's Household. The allegation against the petitioner is that he failed to maintain the stock register properly which led to shortage in stock and thereby caused loss to the Government. Therefore, the petitioner was slapped with the following charges:



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W.P.No.5338 of 2021

Charge No:1

Thiru.C.S.Justin Rajesh, House Keeper (under suspension) Governor's Household, Raj Bhavan, Chennai while performing his duties as House Keeper was responsible for maintaining the inventory of stock of Governor's Household. He failed to maintain the stock register properly, leading to shortage in stock and thereby causing loss to the Government.

Charge No: 2

Thiru.C.S.Justin Rajesh, House Keeper (under suspension) Governor's Household, Raj Bhavan, Chennai was careless and negligent in discharge of his duties.

Charge No: 3

Thiru.C.S.Justin Rajesh, House Keeper (under suspension) Governor's Household, Raj Bhavan, Chennai has purchased materials without any indent of requirement and without following the rules and instructions governing the purchase of stores, laid out in Article 125 of Tamil nadu Financial Code, Volume-I

Charge No.4:

Thiru.C.S.Justin Rajesh, House Keeper (under suspension) Governor's Household, Raj Bhavan, Chennai has not discharged his duties with devotion.



W.P.No.5338 of 2021

4. The petitioner was given with an opportunity to submit his explanation. In the meanwhile, he was kept under Suspension and disciplinary proceedings have been initiated after due opportunity was given to the petitioner. So far as the charge No.1 is concerned, it is with regard to improper maintenance of stock register. The above charge is accepted to be proved in view of the comparison made between the stock register and stock. The second charge is concerned, it was carelessness and negligence while discharging the duties. As the petitioner was found to have been careless and negligent in maintaining stock register, the Enquiry Officer has recorded that the charge of negligence also proved against him and this was the reason for the deficit with stock of linen materials. The third charge is the serious one where it is alleged that the petitioner had purchased materials without any requirement and without following the rules and instructions governing the purchase for stores under Article 125 of Tamil Nadu Financial Code, Volume - I.

5. The pitiable thing that emerged from the explanation submitted by the petitioner is that he was not informed about the indenting procedure to be followed for purchase of the requirement and he has further stated that the purchase had been made often, even though there



W.P.No.5338 of 2021

was sufficient stock and he has done those purchases as per the oral instructions received from the Deputy Secretary and Comptroller. The Enquiry Officer has proceeded to record that the petitioner himself has admitted that he has not followed the indenting procedure for purchasing items. Nothing is stated about the involvement of the superior of the petitioner on whose instructions the petitioner could place the orders. The petitioner has also stated that sometimes he get oral orders from his superiors and that was a practice adopted for atleast 15 years. The fourth charge is a duplicate of charges 1 and 2 and that cannot constitute one more charge.

6. The learned counsel for the petitioner submitted that the petitioner alone is not responsible for the items to be purchased and he can only maintain stocks. The Enquiry Officer has proceeded to find the petitioner guilty for all the charges without taking into consideration of the lack of evidence and involvement of others in the scam. It is further submitted that the disciplinary authority and the appellate authority also did not consider the above aspect while imposing the capital punishment of compulsory retirement on the petitioner who has just completed 43



W.P.No.5338 of 2021

years.

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7. The learned Government Advocate for the respondents submitted that the petitioner has been given with due opportunity and he cannot say that he just obeyed the orders of the superior without following the due procedure for purchasing the materials without any indent.

8. The petitioner is working in a high security area which is a Raj Bhavan. Even a little article of Raj Bhavan is found missing, it is a matter of a security concern. The linen materials which were found to be missing in huge quantities could not have been taken out from the premises of Raj Bhavan without being noticed by the securities placed in the campus at various points and levels. Since the above fact has not been dealt anywhere in the enquiry report or none of the witnesses is seen to have stated anything on this gross doubtful area. The verification of the stock register against the physical stock indicated shortage and the petitioner who was in charge of maintaining stock register was found to be responsible for the missing items.



W.P.No.5338 of 2021

WEB COPY

9. No doubt the person who is in charge of the stock and who maintains stock register is accountable for missing items. Holding the petitioner accountable for the missing items is different from suspecting him. He is not labelled as a culprit who had lifted those items. Obviously because of this, no charge has been framed against the petitioner that he had stolen the linens or he had taken them for his personal use. But the negligence on the part of the petitioner is little large and that is found to be visible from the stock check comparison made between the physical stock and the stock register. But the petitioner who is a house keeper would have been under the supervision of his supervisor or any superior in the hierarchy.

10. So far as the purchase in respect of certain items without indent is concerned, the petitioner has stated that he just acted upon the instructions of the Deputy Secretary and Comptroller. This area needs more explanation as to the sole involvement of the petitioner in placing orders and materialising such purchases. It is to be noted that the criminal



W.P.No.5338 of 2021

case is also pending in this regard and in which the supplier has been made as an accused for having raised bills without supplying the materials. Obviously, the petitioner is not an accused in the said case. As stated already, the fourth charge against the petitioner is just a duplication of the second charge, which also alleges that the petitioner was negligent and careless. Hence, it is just superfluous.

11. Among the four charges against the petitioner, the third charge is said to have been proved against the petitioner without any exhaustive enquiry as to the involvement of the other persons in this regard. So far as the charges 1 and 2 are concerned, it is correct that the petitioner was negligent in not maintaining the stock register properly and he was accountable for the loss of linen in the Household of Raj Bhavan.

12. The disciplinary authority while accepting the enquiry report to proceed to impose the punishment of compulsory retirement on the petitioner, he did not take into account of the above lapses and gaps in the enquiry report of the Enquiry Officer. It is to be noted that the petitioner has not been charged that he had lifted the missing items. Even the appellate authority did not consider the above aspects and also about the



W.P.No.5338 of 2021

26.02.2024

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Neutral Citation : Yes / No
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W.P.No.5338 of 2021

To

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W.P.No.5338 of 2021

R.N.MANJULA, J.

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W.P.No.5338 of 2021

26.02.2024