



WEB COPY

WP No.4025 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22-02-2024

PRONOUNCED ON: 15-03-2024

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

And

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P. No.4025 of 2023

and

W.M.P. No.4067 of 2023

V. Ambigavathi

... Petitioner

-VS-

1. The Register General,
High Court, Madras
Chennai 600 104.
2. The Principal District Judge/
Disciplinary Authority,
Namakkal,
Namakkal District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, or any other appropriate writ, or order of direction for calling the records relating to the impugned Proceedings issued by the 2nd Respondent in ROC.



No.6106/A/2016, dated 25.04.2017 and the subsequent order issued by the 1st respondent in ROC. Nos.77985/2017/C1 & 80775/2017/C1, dated 10.12.2019 and to quash the same and consequently directing the respondents to reinstate the petitioner into service on notional basis with all consequential and monetary benefits and to retire the petitioner from service with effect from 31.05.2019 with retirement benefits including regular pension.

For Petitioner : Mr. G. Sankaran, Senior Counsel
(For Mr. S. Nedunchezhiyan)

For Respondents- 1& 2 : Mr.V. Ayyadurai, Senior Counsel
(For A. Durai Eswar)

ORDER

[ORDER OF THE COURT WAS MADE

BY K. RAJASEKAR, J.]

The relief sought for in the present writ petition is to call the records relating to the impugned Proceedings issued by the 2nd Respondent in ROC. No.6106/A/2016, dated 25.04.2017 and the subsequent order issued by the 1st respondent in ROC. Nos.77985/2017/C1 & 80775/2017/C1, dated 10.12.2019 and to quash the same and consequently to direct the respondents to reinstate the petitioner into service on notional basis with all



consequential and monetary benefits and to retire the petitioner from service with effect from 31.05.2019 with retirement benefits including regular pension.

2. The brief facts leading to filing of this writ petition is as follows:

3. The petitioner herein was appointed as Copyist on 02.07.1990 in Tamil Nadu Judicial Ministerial Service and after serving in various posts, was promoted as District Court Head Clerk, in the year 2016. While she was working as Deputy Nazir on deputation, at Sub Court, Rasipuram, served with a show cause notice, dated 25.02.2016 stating that, while preparing the arrear leave salary bill relating to one Thiru. K. Thiyagarajan, a retired Junior Balliff, she has forged the signature of the Presiding Officer. Subsequent to her reply, an Order of suspension passed on 15.03.2016. Thereafter, a charge memo was issued to the petitioner on 15.06.2016. The charges framed against the petitioner reads as follows:

Charge – 1

That you, Tmt. V. Ambigavathi, while attending the work



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of preparing bills for both the working and the retired staff of the Nazirate Section of the Sub Court, Rasipuram have committed the imputation of misconduct or misbehaviour of irregularity and dereliction of duty by forging the signature of the Presiding Officer in preparing the arrear encashment bill of the Earned Leave salary and the Unearned Leave on Private Affairs relating to Thiru. K. Thiyagarajan, Junior Bailiff (Retired) of this Court in the TNSTC Form 47 (Outer sheet) during the month of January 2016 and it was came to the knowledge of the Presiding Officer when the said bill was placed before him for representation before the Sub Treasury, Rasipuram which was returned for rectification of certain defects, till then it was not brought to the knowledge of the Presiding Officer and thereby violated Rule 20 of the TNGSC Rules, 1973.

Charge – 2

That you, Tmt. V. Ambigavathi, while attending the work of preparing bills for both the working staff and the retired staff of the Nazirate Section of the Sub Court, Rasipuram have attempted to claim Rs.2805/- for the above mentioned retired staff by forging the signature of the Presiding Officer in the bill which leads to a loss of Government money and thus your act amounts to violation of Rule 20 of the TNGSC Rules, 1973.

4. After affording opportunities to file written statement, an Enquiry Officer was appointed by the Disciplinary Authority. After due enquiry, the Enquiry Officer submitted his report dated 01.07.2016, holding the charges framed against the petitioner is proved. Disciplinary Authority,



accepted the report and further show cause notice was issued to the petitioner. After receipt of the representation, final order dated 24.07.2017 was passed by the Disciplinary Authority imposing punishment of dismissal from service with immediate effect from 25.04.2017.

5. The petitioner approached the Appellate Authority by way of Appeal Petition, dated 27.09.2017 against the Order of dismissal passed by the Disciplinary Authority and the same was rejected by the Appellate Authority vide Order dated 10.12.2019, confirming the Order of dismissal. The petitioner filed this writ petition challenging the Order of dismissal from service and seeking reinstatement into service on notional basis with all consequential and monetary benefits and to retire the petitioner from service with effect from 31.05.2019 with retirement benefits including regular pension.

6. The learned Senior Counsel Mr. Sankaran, appeared on behalf of the petitioner submitted that the allegation against the petitioner is that there was forgery of signature of the Drawing Officer in Form-47, even though the filing of Form-47 was not necessary. Admittedly, all the other



connected documents presented along with the bill and the Disbursement Register - MTC-70 signed by the Presiding Officer of the court, hence there is no necessity for forging the signature. He further submitted that the bill for Rs.2,805/- was also returned due to some defect in the bill. There is no evidence available to show that she has forged the signature of the Officer and purely on suspicion, she has been held guilty of charges.

7. Per contra, the learned Senior Counsel for the respondent submitted that it is admitted case of the petitioner that she has prepared the bill and though, she denied that preparation of Form-47, she is the person in-charge of preparing the bills for the Nazir Section. He further submitted that, the petitioner in her reply, has given explanation that she has prepared the bill and handed over the same to one Saraswathy to submit before the Sub Treasury Office, Rasipuram. After return of bill by the Treasury, she has prepared the Form-47 for the purpose of re-presentation and at that time, the Sheristadar of the Sub Court has received the bill from her for getting signature from the Presiding Officer. Thereafter, only she came to know about the forgery of signature in Form-47. Based on the evidence adduced by both the person who has submitted the bill to treasury and the



Sheristadar, who has received the bill after return from the treasury, the Enquiry Officer has arrived his decision. Accordingly, punishment is imposed after affording opportunities, submitted that there is no merit in the petition.

8. We have considered the submissions made on both sides and the materials available on record.

9. The scope of judicial review is well settled and recently the three Judges Bench of Apex Court in ***Pravin Kumar vs. Union of India and others [2020 (4) LLN 55 (SC) : (2020) 9 SCC 471]*** has reiterated the following principles:

“25.The power of judicial review discharged by Constitutional Courts Under Article 226 or 32, or when sitting in appeal Under Article 136, is distinct from the appellate power exercised by a departmental appellate authority. It would be gainsaid that judicial review is an evaluation of the decision-making process, and not the merits of the decision itself. Judicial Review seeks to ensure fairness in treatment and not fairness of conclusion. It ought to be used to correct manifest errors of law or procedure, which might result in significant injustice; or in case of bias or gross unreasonableness of outcome.

26. These principles are succinctly elucidated by a three-judge Bench of this Court in B.C. Chaturvedi v. Union of India



MANU/SC/0118/1996 : (1995) 6 SCC 749 p. 12 in the following extract:

12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether Rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical Rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappraise the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the Rules of natural justice or in violation of statutory Rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.



13. *The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In Union of India v. H.C. Goel MANU/SC/0271/1963 : [(1964) 4 SCR 718 : AIR 1964 SC 364 : (1964) 1 LLJ 38] this Court held at p.728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.*

27. *These parameters have been consistently reiterated by this Court in a catena of decisions, including:*

(i) *State of Tamil Nadu v. S. Subramaniam, MANU/SC/0327/1996 : (1996) 7 SCC 509.*

(ii) *Lalit Popli v. Canara Bank, MANU/SC/0144/2003 : (2003) 3 SCC 583.*

(iii) *Himachal Pradesh State Electricity Board Ltd. v. Mahesh Dahiya, MANU/SC/1499/2016 : (2017) 1 SCC 768.*

28. *It is thus well settled that the Constitutional Courts while exercising their powers of judicial review would not assume the role of an appellate authority. Their jurisdiction is circumscribed by limits of correcting errors of law, procedural errors leading to manifest injustice or violation of principles of natural justice. Put differently, judicial review is not analogous to venturing into the merits of a case like an Appellate Authority.”*



10. The major contention of the petitioner herein is, without any evidence, the Enquiry Officer has based his finding of guilty, which is perverse and at the time of imposing punishment, the past services were not taken into account and the punishment is also disproportionate to the misconduct alleged. It is admitted fact that during the enquiry, the Sheristadar of the Sub Court has stated that all the bills of the Nazir Section would be prepared by the petitioner including the arrear bill of the retired staff. On 20.02.2016, the arrear bill of K. Thiagarajan, was handed over to her for getting the signature of the Sub Judge, accordingly, she taken the bill to get the signature of the Sub Judge for representation of the returned bill of K. Thiagarajan and on perusing the same, the learned Sub Judge has informed her about the forged signature found in the Form-47 and ordered for enquiry.

11. Similarly, the Junior Bailiff namely Saraswathy examined, who stated that the arrear bill of Thiagarajan was handed over to her for presenting it to Treasury and subsequently, it was returned on the ground that Form-47 was not attached with the bill. The petitioner / delinquent has



also adduced her side evidence to support her case. After considering the evidence, the Enquiry Officer has recorded the finding that the delinquent has given a contrary facts between her explanation and evidence. Satisfied with the evidence placed before him by the department and held that, she is guilty of both charges framed against her.

12. The report of the Enquiry Officer and the proceedings of the Disciplinary Authority shows that, the delinquent has been given sufficient opportunity to defend her case in the enquiry proceedings. Subsequent to the second show cause notice, the Order of dismissal has been passed.

13. Subsequently, the Delinquent approached the Appellate Authority and after due consideration of the appeal, Appellate Authority dismissed the appeal. The petitioner has not raised any ground of violation of principal natural justice or any violation of rules. The charge memo is served on the delinquent and she has rightly understood the charge and submitted her written submission. She has disputed the allegation of misconduct and she has adduced her side evidence in the enquiry. From the stage of charge memo till the submission of enquiry report by Enquiry



Officer, she has been given fair treatment. The Disciplinary Authority has served second show cause notice and after receiving representation from delinquent, final order of dismissal has been passed. These facts shows that, the Disciplinary Authority has ensured the fairness in treatment. The Delinquent has availed all the legal remedies available under the Discipline and Appeal Rules. We are of the view that, there is no procedural error in the Orders passed against the Delinquent.

15. With regard to the allegation of perverse finding, before the Enquiry Officer, the person who has received the bill for presentation before the Treasury and the person, who has received the return bill attached with Form-47 (which contains the forged signature) for getting signature of Presiding Officer is examined and the delinquent has cross-examined them. The evidence of the above witnesses have been considered by the Enquiry Officer and he has held that, their evidence is sufficient to hold, the guilty of charges against the delinquent.

16. The Appellate Authority has once again re-appreciated the evidences recorded and agreed with the Discipline Authority. Even though,



it is contended by the Delinquent that attaching the Form-47, is not necessary for the presentation of bill, the evidence adduced shows that, the original bill was returned for want of Form-47, and subsequently, Form-47 found to be attached with the returned bill prepared by the Delinquent, and at the time of getting signature of Presiding officer, the Form-47, attached is found to be forged. This was taken note by the Disciplinary Authority since he is the sole judge of the facts and the Appellate Authority has also re-appreciated the evidence and also adequacy and reliability of evidence was fully considered by both the authorities, this Court is not entitled to substitute its opinion that of Authorities. Unless the conclusion reached suffers from patent error on the face of record or is perverse, no writ of certiorari could be issued. This Court finds no procedural errors leading to manifest in justice or violation of principles of natural justice, hence this Court finds no proper reason to interfere with the orders passed against the petitioner.

17. With regard to quantum of punishment, we don't find any disproportionality, since the proven misconduct herein is forgery of signature of the Presiding Officer i.e., Sub Judge, for the purpose of availing



monetary benefit. Accordingly, this Court finds no merit in this writ petition.

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16. In the result, the present writ petition stands dismissed. Consequently, connected miscellaneous petitions stands closed. However, there shall be no order as to costs.

(S.M.SUBRAMANIAM,J.) (K.RAJASEKAR,J.)

15-03-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

1. The Register General,
High Court, Madras
Chennai 600 104.
2. The Principal District Judge/
Disciplinary Authority,
Namakkal,
Namakkal District.



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S.M.SUBRAMANIAM, J.
AND
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Pre-delivery Judgment made in
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