



W.P.No.16273 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.16273 of 2012

P.Jaganathan

...Petitioner

-Vs-

- 1.The Joint Director,
Stationary and Printing Department,
110, Annai Salai,
Chennai – 600 002.
- 2.The Commissioner,
Commissionerate of Stationary and Printing Department,
110, Annai Salai,
Chennai – 600 002.
- 3.The Secretary to the Government,
Tamil Development, Religious Endowments of Information Department,
St., George Fort, Chennai – 600 009.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus calling for the records and papers from the file of the 1st respondent's order proceedings C.No.EX.1/60811/2004 dated 30.04.2007 and the 2nd respondent's order proceedings C.No.K3/24151/2007 dated 28.09.2007 and the 3rd respondent's G.O.(2.pa)No.32 dated 15.12.2011 and quash the same and consequently direct the respondents to pay all the



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monetary benefits which was due to the petitioner and pass such further orders.

For Petitioner : Mr.S.Kumarasamy

For Respondents : Mr.N.Senthil Selvi
Government Advocate

ORDER

This writ petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the 1st respondent's order proceedings C.No.EX.1/6081/2004 dated 30.04.2007, the 2nd respondent's order proceedings C.No.K3/24151/2007 dated 28.09.2007 and the 3rd respondent's order proceedings G.O.(2.pa)No.32 dated 15.12.2011, and consequently direct the respondents to pay all the monetary benefits which was due to the petitioner.

2. The case of the petitioner is that he joined the 1st respondent service on 05.05.1975 and completed more than 35 years of service, and retired from service on 31.05.2010. At the time of retirement, he worked as a senior mono mechanic. On 21.12.2004, the petitioner was suspended from his service and in the suspension order, it was stated that he received a housing loan from the Life Insurance Corporation by giving forged salary



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slips. The petitioner also gave a reply dated 12.01.2005, to the suspension order and in that reply letter, he stated that he wanted to get the housing loan in a genuine manner and had given his salary slip for the month of March 2002 to the housing loan broker. The petitioner has stated that he has not given any forged documents, but he has given the original March 2002 salary slip and he has requested the Authority to cancel the suspension order and permit him to attend work. After considering the letter of the petitioner, the respondents allowed him to continue his work on 18.06.2005.

3. Learned counsel for the petitioner would submit that on 18.04.2005 a preliminary enquiry was conducted. Thereafter, on 25.05.2005 charge sheet was given to the petitioner. The petitioner also gave his explanation letter on 13.06.2005 and during the enquiry proceedings he has not accepted charges and denied each and every charges. On the management side, no documents were marked and no oral evidence was let in before the Enquiry Officer to prove the charges framed against the petitioner.

4. Learned counsel for the petitioner would further submit that the respondents without following the principles of natural justice, the enquiry



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findings were given by the Enquiry Officer on 19.05.2005. Thereafter, the petitioner gave his explanation on 13.06.2005 along with the letter given by LIC Housing Finance Limited saying that he had cleared all the dues. The Deputy Director of Stationary and Printing Department, on the basis of the enquiry report issued an order dated 30.04.2007 in which it was stated that charges alleged against the petitioner were proved and the punishment of stoppage of increments for a period of six months with cumulative effect was imposed. Thereafter, the petitioner preferred an appeal to the Commissioner of Stationary and Printing Department, the 2nd respondent herein on 24.05.2007 and the same was rejected on 28.09.2007. Subsequently, he made a second appeal on 29.11.2007 before the 3rd respondent, the Secretary of Government, Tamil Development, Religious Endowments of Information Department, and the same was also rejected on 15.12.2011 and confirmed the punishment imposed by the concerned authority and the same issued to the petitioner on 07.01.2012.

5. Learned counsel would further submit that one Mr.Arivazhagan, who worked as a Junior Electrician in the 1st respondent Government press, he also faced similar charges and the 1st respondent framed the charges



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against him by saying that he took a housing loan without getting proper permission from the management. On 27.02.2008, the punishment order was passed by the 2nd respondent saying that the stoppage of increment was for six months without cumulative effect and in regard to Mr.G.Kothandaraman, worked as a binder, he also faced similar charges as giving forged documents to get the housing loan from a private company. On 06.03.2008, the punishment order was passed by the 2nd respondent saying that the stoppage of increment was for six months without cumulative effect and one Mr.Thamarai Selvi worked as a compositor. She also faced similar charges and also one Mr.B.Krishnamoorthy, worked as junior foreman. He also faced similar charges. Hence, there were five persons who faced similar charges. The said B.Krishnamoorthy was relieved from all the charges by the 2nd respondent's order dated 27.04.2007. It is further submitted that the co-employees of the petitioner got different punishments for the same charges framed against the petitioner and the second appeal dated 29.11.2007 which was preferred by the petitioner to the 3rd respondent highlighted the discrimination in the matter of punishment. But his statement was not recorded by the 3rd respondent. Hence, it is a violation of Article 14 of the Constitution of India. Aggrieved by the above order passed by the 3rd



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respondent dated 29.11.2007, the petitioner has come forward with the present writ petition.

6. A counter affidavit was filed on behalf of the respondents on 27.11.2012, in which it is stated that the Government has prescribed the Tamil Nadu Government Servant Conduct Rules, 1973, with regard to the conduct of a Government servant and it is expected that every Government servant shall regulate his conduct in such a manner as does not in any way undermine the good faith of the Government. Further, it has also been stipulated in the said rules that if the conduct of a Government servant is in violation of any of the said rules, disciplinary action would be taken against the Government servant for the said violation.

7. Rule No.6 of the Tamil Nadu Government Servant Conduct Rules 1973, is extracted hereunder for better appreciation and understanding:

(4)(a) No Government servant shall, save in the ordinary course of business with a bank or a firm or a public limited company of standing, duly authorised to conduct banking business either himself or through any member of his family or any other person acting on his behalf:-

i) lend or borrow money as principal or agent, to or from any person within the local limits of his authority or with whom he is likely to have official



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dealings, or otherwise place himself under any pecuniary obligation to such person or:”

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In view of the above said rule, if a Government servant borrows money from any person without the sanction of the Government, it would be considered that the said Government servant had violated the code of conduct and would be amenable to disciplinary action for the said violation.

8. Learned Government Advocate would further submit that Messers LIC Housing Finance Limited in letter dated 21.01.2004 had informed the 1st respondent that the petitioner had availed a housing loan for Rs.2,50,000/- and has not repaid the loan properly. On verification of the documents, it has found that the petitioner with the fabricated official documents, availed the said housing loan from the above said company. It was stated by the 1st respondent that availing such a huge amount of loan, Rs.2,50,000/- by the petitioner without the prior sanction of the respondents is a serious violation of the Tamil Nadu Government Servant Conduct Rules, 1973. Therefore, it was decided by the 1st respondent to initiate disciplinary action against the petitioner under 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules, 1955. In furtherance of the said disciplinary proceedings, the petitioner by the proceedings of the Work Manager, Government Press, Chennai – 79, dated 21.12.2004 issued in 6465/N2/2004



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was placed under suspension. The petitioner was served with a charge memo dated 21.12.2004. In the said memorandum, charges were imputed upon the petitioner for the violation of Rule 6 (4) (aa) and Rule 7(1)(a) of the Tamil Nadu Government Servant Conduct Rules, 1973 and the petitioner furnished his explanation on 10.01.2005 that he was not responsible for the fabricated documents for availing the loan and that it was the agent who had made the document so fabricated and hence, in the said explanation, the petitioner had not refuted the charges levelled against him in the said charge memo dated 21.12.2004. Aggrieved by the order dated 28.09.2007, the petitioner submitted a petition on 29.11.2007 to the Government, the 3rd respondent herein, praying that the punishment awarded by the 1st respondent in the order dated 30.04.2007, which in turn was confirmed by the 2nd respondent in the order dated 28.09.2007 be quashed and the said application was rejected on the ground that there is no valid reason for the interference of the Government to interfere with the order passed by respondents 1 and 2.

9. Heard both sides and perused the materials available on record.



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10. In the case on hand, there were total five persons including the petitioner who faced similar charges and obtained the loan without the prior sanction of the Government, which is in violation of Rules 4(a) of the Tamil Nadu, 1973. In regard to the petitioner, the punishment awarded is stoppage of increment for six months with cumulative effect, whereas for the other similarly placed persons, Mr.Thamarai Selvi, Mr.Arivazhagan, and Mr.G.Kothandaraman, the punishment imposed is stoppage of increment for six months without cumulative effect. In regard to Mr.B.Krishnamoorthy, the entire charges were revoked by the proceedings of the Commissioner, the 2nd respondent vide its order dated 27.04.2007 vide Na.Ka.3/18744/2007.

11. It is pertinent to note that the LIC Housing Finance Limited has issued a receipt dated 13.03.2006, in which it is stated that a loan amount of Rs.2,62,000/- was repaid and the said letter was also enclosed by the petitioner and submitted his explanation dated 13.06.2005, to the report of the Enquiry Officer dated 19.05.2005. However, the same was not considered by the 2nd respondent.

12. It is also pertinent to note that other persons were awarded the



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punishment of stoppage of increment for six months without cumulative effect imposed by the Disciplinary Authority as confirmed by the 2nd respondent and in the cases of Mr.Thamarai Selvi, Mr.Arivazhagan, and Mr.G.Kothandaraman. In regard to Mr.B.Krishnamoorthy, the entire charge was revoked by the proceedings of the Commissioner, the 2nd respondent. Hence, it is crystal clear and evident that it a violation of the Article 14 of the Constitution of India. When all five persons are facing similar charges, the punishment imposed ought to have been uniform for all the persons. But in this case, the petitioner was awarded the punishment of stoppage of increment for six months with cumulative effect and the other three persons without cumulative effect and in regard to Mr.B.Krishnamoorthy, no punishment. Hence, the order passed by the 2nd respondent is arbitrary and the same is unsustainable in law.

13. In view of the above facts and circumstances of this case, this Court is of the considered view that the order passed by the 1st respondent in proceedings C.No.EX.1/60811/2004 dated 30.04.2007, the 2nd respondent in proceedings C.No.K3/24151/2007 dated 28.09.2007 and the 3rd respondent's



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order proceedings G.O.(2.pa)No.32 dated 15.12.2011 are liable to be quashed and the same are hereby quashed.

14. In the result, the writ petition stands allowed and the respondents are directed to pay all the monetary benefits which is due to the petitioner as per the rules in force as on the date within a period of eight weeks from the date of receipt of a copy of the order. No costs.

15.02.2024

cda

Index : Yes/No

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