



W.P.No.20744 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.06.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.20744 of 2015

Dr.R.Murugasan

...Petitioner

Vs.

1.Government of Tamil Nadu
Represented by
Secretary to Government,
Animal Husbandry Dairying and Fisheries Department,
Secretariat,
Chennai – 600 009.

2.The Secretary
Tamil Nadu Public Services
Commission
Frazer Bridge Road, V.O.C. Nagar,
Park Town,
Chennai – 600 003.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari or any other appropriate Writ or any order or direction in the nature of a Writ of calling for the records relating to proceeding culminating in the impugned order in G.O. (D)



W.P.No.20744 of 2013

No.54 Animal Husbandry Dairying & Fisheries Department dated 08.03.2013 by the 1st respondent and quash the same.

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For Petitioner : Mr. S.Namasivayam

For Respondent 1 : Mr. M.Alagu Goutham
Additional Government Pleader

For Respondent 2 : Mr. R.Bharanidharan

ORDER

Questioning the punishment inflicted on him as detriment, the petitioner is before this Court.

2. The petitioner was working as a Veterinary Assistant Surgeon, Mobile Veterinary Unit, Ariyalur. He had been recruited as a Veterinary Assistant Surgeon on 18.11.1998. While so, he had been served with a charge memo in the year 2004, in Government Letter No.12161/AH 1/2003-3, dated 05.10.2004.



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W.P.No.20744 of 2015

3. In the given letter four charges had been framed against the petitioner which are as follows:

(i)The petitioner while working in Ariyalur region had received medicines for the year 2001 - 2002 without label “Government Supply – Not For Sale”, thereby not following the tender procedure.

(ii)The petitioner had not followed the tender procedure as he had considered the firms which had sent their quotation after the stipulated date of 15.03.2002, thereby violated Rule 20 of the Tamil Nadu Government Servant Conduct Rules.

(iii)The petitioner had received medicines from various firms and had distributed the same to the various Animal Husbandry Dispensaries in Ariyalur Region, without mentioning the date of supply of the medicines to the various dispensaries in Ariyalur Region, in the stock



register.

(iv) Various entries have been made in the stock register and in the stock entry certificate as if medicines were received from Agasthiyar, Pharmaceuticals on 26.03.2002, whereas the medicines were received only on 18.04.2002 and 16.04.2002.

4. The petitioner had denied all the charges against him. The petitioner would submit that the Commissioner for Disciplinary Proceedings, Tiruchirapalli, was appointed as an Enquiry Officer who held that charges 1, 3 and 4 stood proved and the 2nd charge was not proved. However, the respondent by order dated 11.06.2008 held all the charges as proved and ordered a punishment of stoppage of increment for two years with cumulative effect. The petitioner thereafter preferred an appeal to the 1st respondent on 11.11.2009 seeking the 1st respondent to re-consider his order dated 11.06.2008. This appeal was rejected by the 1st respondent by order dated 08.03.2013.



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5. The petitioner would submit that the charges had been initiated against five persons. However, each officers had been given a different punishment, two officers who had retired were given a penalty of pension cut of Rs.100/- per month for one year and two officers were given a punishment of one increment cut with cumulative effect. The petitioner would contend that as against one officer who had been given a punishment of one year increment cut with cumulative effect, the same was modified to stoppage of increment for one year without cumulative effect stating that there was no financial loss to the unit at Ariyalur.

6. The petitioner would submit that even in the case of the petitioner by reason of the charges that have been framed against the petitioner no financial loss has been suffered by the respondent. However, he has been singled out and given harsh punishment, whereas, punishment imposed on the another similarly placed officer



has been modified. Therefore, he has come forward with the above Writ Petition.

7. The Deputy Secretary to the Government has filed a counter on behalf of the 1st respondent refuting the contents made by the petitioner in the petition. However, there is no counter to the main allegation made by the petitioner that there has been a discrimination in imposing punishment on all the five persons who have been charged.

8. Mr. S.Namasivayam, learned counsel appearing on behalf of the petitioner would primarily address his argument by contending that the punishment which has been imposed on the petitioner is harsh and not commensurate to the charge particularly when the respondents have not suffered any monetary loss and when the punishment has been reduced in respect of a more or less similarly placed accused.

9. He would submit that in the case of one Dr.Bhaskaran, though he was initially imposed with a punishment of stoppage of increment



W.P.No.20744 of 2015

for one year with cumulative effect, later, on the review filed by the said Bhaskaran, the same has been modified as stoppage of increment for a period of one year without cumulative effect. The decision to modify the punishment has been made on the recommendation of the Tamil Nadu Public Service Commission, which had stated that since there was no financial loss, the Commission would advice the Government to modify the punishment and this recommendation has also been accepted. The same concession could therefore be extended to the petitioner.

10. The learned Additional Government Pleader, on the other hand, would submit that with reference to the case of the petitioner, the Tamil Nadu Public Service Commission had opined that the petitioner has not applied his mind to important issues and had not discharged his duty diligently and with honesty under the Tamil Nadu Government Servant Conduct Rules and therefore recommended to confirm the punishment already imposed. Therefore, he would submit that the imposed order cannot be called into question.



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W.P.No.20744 of 2015

11. Heard the learned counsels and perused the records.

12. Admittedly it was not the petitioner alone who has been accused of dereliction of duty. Five others had also been accused of some of the charges, two of them had been issued a memo for the first charge and the four others had been issued a memo for three charges.

13. A perusal of the order dated 11.06.2008 would indicate that the Commissioner for Disciplinary Proceedings had clearly found that with reference to the second charge, namely, receiving quotations after the stipulated date of 15.03.2002, the Commissioner for Disciplinary proceedings has observed that the list of companies which had sent quotations prior to the crucial date and after the date has not been placed before the purchase committee. The Commissioner has also observed that the duties and responsibility of the members of the purchase committee was also not fixed. However, despite this



recommendation, it is seen that the 1st respondent has gone on to hold that the charges was proved. The Commissioner for Disciplinary Proceedings have found the petitioner guilty of charges 1, 3 and 4. However, no reasons for overlooking this finding in the report has been given by the 1st respondent.

14. Admittedly, no financial loss has been caused to the Unit where the petitioner worked. It is no doubt true that there has been dereliction of duty on the part of the petitioner. It is not the charge of the respondents that the petitioner had acted in a dishonest manner or that he has achieved a monetary gain by reason of the above. The TNPSC which had recommended modification of the punishment imposed on the other delinquent Dr.Bhaskaran has refused to apply the same yardstick to the petitioner by contending that he had not discharged his duty diligently and with honesty.

15. It has, at no point in time been stated by the respondents that the petitioner has acted dishonestly. The other two delinquents have



W.P.No.20744 of 2013

also imposed with lighter punishments considering the fact that they had superannuated. Therefore, taking note of the recommendation made in the case of Dr.M.Bhaskaran, that no financial loss had been caused to the Government and considering the fact that the petitioner is guilty of dereliction of duty and not accused of acting dishonestly, this Court comes to the conclusion that the punishment of stoppage of increment for a period of two years with cumulative effect is on the harsh side and is also discriminatory.

16. The Writ Petition is allowed to the extent that the petitioner's punishment is modified as stoppage of increment for a period of two years without cumulative effect. No costs.

04.06.2024

Index : Yes/No
Internet : Yes/No
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W.P.No.20744 of 2015

To

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Chennai – 600 009.

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P.T. ASHA, J,

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