



W.P. No.23831 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.23831 of 2012

C.Kanchana

... Petitioner

Vs.

1.The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai – 600 001.

2.The Deputy Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai – 600 001.

3.The Chief Engineer,
Administration,
Chennai Port Trust,
Chennai – 600 001.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned orders passed by the 3rd respondent in No.E5/1818/10/E dated 06-12-11, confirmed by the appellate authority, the 2nd respondent by the order No.E5/2667/2012E dated 14.06.2012, conformed in the revision by the 1st respondent by proceedings No.E5/2667/2012E dated



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16.01.2013 and quash the same direct the respondents to pay the petitioner arrears of increment and back wages, if any.

(PRAYER AMENDED AS PER ORDER DATED 30.07.2024 IN WMP.22693/2024 IN WP.23831/2012)

For Petitioner : S.K.Priya

For Respondents : Mr.R.Karthikeyan

ORDER

Heard Ms.S.K.Priya, learned counsel for the petitioner and Mr.R.Karthikeyan, learned counsel for the respondents.

2. The petitioner herein was appointed as Attender in the year 1990 on compassionate grounds, on the demise of her father. While, the petitioner was working as Senior Attender in the Engineering Department of the respondent Port Trust, she was subjected to disciplinary proceedings by issuing a memo dated 08.02.2010 for irregularly reporting to duty from 07.03.2009 to 31.12.2009. In response to the same, the petitioner submitted her explanation on 16.02.2010 and thereafter, she got issued a legal notice dated 06.03.2010. It is thereafter, another charge memo dated 08.04.2010 came to be issued to the petitioner and in response to the same, she submitted her explanation and an enquiry was conducted on the said charge framed



against her. On submission of the report of the enquiry officer, the same was also furnished to the petitioner through Letter dated 16.11.2011. It is thereafter, the 3rd respondent herein issued proceedings No.E5/1818/10/E dated 06.12.2011 imposing minor penalty of postponement of next increment for three months without cumulative effect against the petitioner. The entire body of the said order dated 06.12.2011 reads as under:

“An Enquiry was ordered against her for the following misconduct under Regulations 3(1) – (i) (ii) (iii), 4(17) & 4(20) of MPT Employees' (Conduct) Regulation, 1987.

(a) Failing to intimate criminal cases filed against her;

(b) When an enquiry is being ordered and conducted, she has forwarded a Legal Notice through her Advocate;

(c) Made false allegations against her Superiors.

After conducting enquiry, the Enquiry Officer in his report dated 24.10.2011 has concluded that the charges framed against her have been proved.

Hence, her next increment is postponed for three months without cumulative effect for the above misconduct.”



3. Aggrieved by the same, the petitioner filed an appeal before the 2nd respondent but the same was also rejected by the 2nd respondent, by an order dated 14.06.2012. The body of the said order dated 14.06.2012 reads as under:

“With reference to her appeal cited, she is informed that there is no grounds to consider the appeal preferred by her against the Minor penalty of postponement of her next increment for a period of 3 months without cumulative effect imposed on her by the Disciplinary Authority vide Memo no: E5/1818/10/E dated 06.12.2011.

Therefore, her appeal cannot be considered and the Minor penalty already imposed on her by the Disciplinary Authority stands good.”

Aggrieved by the same, the petitioner filed further revision before the 1st respondent and the same was also rejected by the 1st respondent by passing an order dated 16.01.2013. The body of the said order dated 16.01.2013 reads as under:

“With reference to the above, it is informed that after careful consideration of her Revision Application dated 30.06.2012, Chairman, Chennai Port Trust has disallowed the same.”



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4. It is aggrieved by the said order of punishment as confirmed by the appellate and revisional authorities, the petitioner filed the present writ petition.

5. The Rule 14 of Chennai Port Trust Employees' (Classification, Control and Appeal) Regulations, 1988 provides for procedure that is required to be followed in the matter of imposing minor penalties. The said Rule 14 reads as under:

*“14. Procedure for imposing minor penalties – (1)
Subject to the provisions of Sub-Regulation (3) of Regulation 12 no order imposing any of the penalties specified in clause (i) to (iv) of Regulation 8 shall be passed except that after -*

(a) informing in writing the employee, of the proposal to take action against him and of the imputations of misconduct or misbehavior on which it is proposed to be taken and giving him an opportunity of making any representation he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in Sub-Regulations (3) to (23) of Regulation 12, in every



case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) taking the representation, if any, submitted by the employee under clause (a) and the record of inquiry, if any, held under (b) into consideration and

(d) recording a finding on each imputation of misconduct or misbehavior.

(2) The record of the proceedings in such cases shall include -

(a) a copy of the intimation to the employee of the proposal to take action against him;

(b) a copy of the statement of imputations of misconduct or misbehavior delivered to him;

(c) his representation, if any;

(d) the evidence produced during the inquiry;

(e) the findings on each imputation or misconduct or misbehavior; and

(f) the orders on the case together with the reasons therefor.

(3) Notwithstanding the provisions contained in clause (b) of Sub-Regulation (1), if in a case it is proposed, after considering the representation, if any submitted by the employee, to withhold increments of pay for a period exceeding three years or to withhold



increments of pay with cumulative effect for any period or if the penalty of withholding of increments is likely to affect adversely the amount of pension payable to the employee, an enquiry shall invariably be held in the manner laid down in Sub-Regulations (3) to (23) of Regulation 12, before making any order imposing on the employee any such penalty.”

From a perusal of the above Rule, it is evident that the disciplinary authority is under obligation to record its finding on each imputation of misconduct or misbehavior alleged against the delinquent employee.

6. A perusal of the order dated 06.12.2011 as extracted above shows that absolutely there is no finding recorded by the disciplinary authority on the alleged misconduct of the petitioner except referring to the report and findings of the enquiry officer. In the absence of any finding recorded by the disciplinary authority on the alleged misconduct of the petitioner, the action of the 3rd respondent imposing minor penalty of postponement of next increments for a period of three months without cumulative effect is bound to be declared as illegal and arbitrary.



7. Further, a perusal of the order dated 06.12.2011 shows sheer non-application of mind of the 3rd respondent while passing the said order.

Perhaps it is only considering the fact that the punishment that is being imposed is only trivial in nature, the 3rd respondent ought have not taken care to comply with requirement of law. When the petitioner preferred an appeal before the respondents 1 and 2 respectively, the respondents 1 and 2 also acted equally in a careless and negligent manner and passed orders without considering in elaborate, the appeal and revision filed by the petitioner. In the circumstances, in the considered view of this Court, the order of punishment dated 06.12.2011 and the orders passed by the appellate and revisional authority dated 14.06.2012 cannot be sustained under law and accordingly, they are hereby set aside.

8. Taking into consideration the long lapse of time since the date of imposing the punishment, and also the fact that the punishment that was imposed is too trivial in nature and the charges that are alleged against the petitioner are also trivial in nature, this Court is of the considered view that the misconduct or misbehavior if any, on the part of the petitioner has been appropriately punished by compelling her to approach this Court and in



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undergoing stress by prosecuting the litigation for over a period of one decade. Hence, this Court does not deem it necessary to grant liberty to the respondents to re-look the matter at this length of time.

9. In the light of the above, this writ petition is allowed. The connected miscellaneous petitions, if any shall stand closed. No costs.

13.08.2024

Index : Yes/No
Speaking Order : Yes/No
dpa

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