



W.P.No.25205 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2024

CORAM:

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

W.P.No.25205 of 2012

Dominic

... Petitioner

Vs.

1. The Superintendent,
Central Prison,
Vellore

2. The Deputy Director,
Prison Department,
Egmore,
Chennai.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to the proceedings No.9735/Po 1/2009 dated 15.02.2010 of the first respondent partly confirmed by the proceedings No.791/Mu../2010 by the second respondent, quash the same.

For Petitioner : No Appearance

For Respondents : Mr.S.Rajesh

Government Advocate



W.P.No.25205 of 2012

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ORDER

The proceedings No.9735/Po 1/2009 dated 15.02.2010 of the first respondent which is partly confirmed in the proceedings No.791/Mu.u/2010 dated 07.06.2010 by the second respondent are under challenge.

2. There is no representation for the petitioner.

3. When the matter came up on 05.06.2024 and 03.07.2024, there was no representation for the petitioner. Hence, the name of the petitioner has been printed in the cause list today.

4. Mr.S.Rajesh, learned Government Advocate appearing for the respondents is present.

5. Factual matrix:

The petitioner was appointed on 29.12.1986 in the Prison Department and he was working as up Grade Warder at Central Prison – Il Puzhal, Chennai. Previously, he was working as up Grade Warder at



W.P.No.25205 of 2012

Central Prison at Vellore.

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6. When he was working in Vellore Prison as Up Grade Prison Warder, on 05.08.2009, he was granted duty in the Prison Hospital. In the absence of one second Grade Warder, one first Grade Warder and one Chief Warder, he was asked to streamline the prisoners who had come for taking treatment in the prison hospital. While so, at about 11.30 a.m., a remand prisoner with No.529 namely, Murthy made an attempt to commit suicide by hanging in the Tamarind tree. He heard the loud voice of prisoners calling for help, and he immediately rushed to the said place and rescued the prisoner. The said prisoner was taken to the hospital, however, the prisoner succumbed to the injuries. The prisoner who tried to commit suicide was a mentally disturbed person. But on 05.08.2009, the said prisoner was allowed to go outside the cell, which paved the way for the said incident, and he is not responsible for the said incident.

7. By a charge memo dated 21.10.2009 in proceedings No.9735/PO.1/2009, charge memo was issued by the first respondent, for dereliction of duty under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The Enquiry Officer, namely the first



W.P.No.25205 of 2012

WEB COPY

respondent after, enquiry awarded a punishment of one year increment cut without cumulative effect. On appeal, before the Deputy Director of Prisons, the second respondent herein, by Order dated 07.06.2010, the said punishment was altered and reduced to six months increment cut without cumulative effect. Hence this writ petition.

8. Mr.S.Rajesh, learned Government Advocate appearing for the respondents would submit that considering the charges levelled against the petitioner, the first respondent has awarded one year stoppage of increment for one year without cumulative effect itself is proportionate to the charges levelled against the petitioner. He would further argue that, on appeal by the petitioner, it was reduced to six months stoppage of increment without cumulative effect. Therefore, the order is valid.

9. As regards the power of the Court relating to judicial review of the order passed by the Disciplinary Authority, the Honourable Supreme Court, in one of its decisions reported in 1995 (6) SCC 749 (*B.C.Chaturvedi v. Union of India*), has held as under:-

“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



WEB COPY



W.P.No.25205 of 2012

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 re appreciate 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



W.P.No.25205 of 2012

WEB COPY

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 re appreciate 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 [(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. (Emphasis Supplied)”

10. The law is well settled that under Article 226 of the Constitution, the review Court has got limited scope to interfere with the punishment awarded by the Enquiry Officer unless it suffers from perversity or infirmity. The petitioner has not alleged anything against the Enquiry Officer as to the conduction of enquiry proceedings, and there is no allegation as to the violation of statutory rules or principles of natural justice by the Enquiry Officer.



W.P.No.25205 of 2012

WEB COPY

11. The pivot question is whether the punishment awarded is proportionate to the charge levelled against the petitioner or not. The charge levelled against the petitioner is that, when the petitioner was posted duty in the prison hospital on 05.08.2009, the remand prisoner No.529 has made an attempt to commit suicide by hanging in a Tamarind tree and succumbed to the injuries. Since the petitioner was not vigilant and negligent in his duty, a charge memo framed under Rule 17(B) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules was issued.

12. The first respondent passed an award imposing punishment of one year stoppage of increment without cumulative effect, and on appeal it was altered for the reasons stated in the order and reduced the punishment for stoppage of increment without cumulative effect for six months. The petitioner was posted duty in the Prison Hospital. Upon consideration of his explanation and enquiry proceedings, the Appellate Authority reduced the punishment to six months increment cut without cumulative effect. Considering the nature of charge, scope of work of the petitioner, I am of the considered view that awarding punishment of stoppage of increment for six months without cumulative effect cannot be termed as excessive.



W.P.No.25205 of 2012

WEB COPY

13. Based on the aforesaid discussions, this writ petition stands dismissed. There is no order as to costs. Connected miscellaneous petition, if any stands closed.

05.07.2024

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

1. The Superintendent,
Central Prison,
Vellore

2. The Deputy Director,
Prison Department,
Egmore,
Chennai.



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W.P.No.25205 of 2012

R.KALAIMATHI, J.

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W.P.No.25205 of 2012

05.07.2024