



WEB COPY

W.P.No.25330 c



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.25330 of 2015

and

M.P.No.1 of 2015

- 1.M.Devadas (Deceased)
- 2.Mrs.Sundara Bai Selvaraj
- 3.Dante Ruskin Devadas
- 4.Bebincy Suneer
- 5.Birla Parimal

... Petitioners

[P2 to P5 substituted as Lrs of the deceased P1 vide order dated 15.10.2024 made in WMP No.24667 of 2024]

Vs.

1. The State of Tamil Nadu,
Represented by the Principal Secretary to Government,
School Education Department (Higher Secondary),
Fort St.George, Chennai – 600 009.
2. The Director of School Education (Higher Secondary Schools),
DPI Complex, College Road,
Chennai – 600 006.
3. The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
4. The Chief Educational Officer,
Nagercoil, Kanyakumar District.
[R4 impleaded vide order dated 15.10.2024]

... Respondents



made in WMP No.24667 of 2024]

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the proceedings of the 2nd respondent dated 29.03.1995 in Na. Ka. No. 130688/W4/91 and the consequential order of the 1st respondent in G.O.No.61 dated 13.3.2015 quash the same and direct the respondents to release the withheld annual increment along with interest at the rate of 18% per annum

For Petitioners	: Mr.P.N.George Graham
For R1 & R2	: Mr.K.H.Ravikumar,
	Government Advocate

ORDER

This writ petition has been filed challenging the proceedings bearing Na.Ka.No.130688/W4/91, dated 29.03.1995, passed by the Respondent No.2, imposing the punishment of “*stoppage of increment for a period of one year without cumulative effect*”, as modified by the orders issued by the Respondent No.1 in G.O (Ms) No.61, dated 13.03.2015, reducing the punishment to that of “*stoppage of increment for a period of six months without cumulative effect*, on the petitioner”

2. During the pendency of the writ petition, the original petitioner passed away, and the petitioners 2 to 5 herein were brought on record, being the legal representatives of the deceased petitioner.



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3. The brief facts are that the Petitioner No.1 was originally appointed as 'School Assistant' in the Tamil Nadu School Education Subordinate Service on 18.06.1970. Thereafter, he was appointed as an 'Inducted Teacher' in the Higher Secondary School. It was thereafter, in the year 1989, he was posted as 'Post Graduate Assistant' in Government Boys Higher Secondary School at Marthandam. While, the petitioner was working as 'Post Graduate Assistant', the petitioner availed Leave Travel Concession from 18.05.1989 to 24.05.1989. It is in connection with claiming the benefit of Leave Travel Concession, the petitioner was subjected to disciplinary proceedings by issuing a charge-memo dated 08.01.1991 on the ground that the petitioner initially made a claim for an amount of Rs.2,616/- towards the Leave Travel Concession and thereafter, restricted his claim to Rs.776/- by falsely mentioning the age of his two daughters as 17 and 14 years, though they were aged about 9 years and 7 years and thereby attempted to cheat the Government. The petitioner submitted his explanation in response to the charge-memo, denying the charges. Thereafter, an Enquiry Officer was appointed, and upon submission of the report of the Enquiry Officer, holding the charges as proved, the impugned punishment was imposed by Respondent No.2 and thereafter, the same was modified as noted herein above. Aggrieved



by the said orders dated 29.03.1995 and 13.3.2015, the petitioner approached this court by filing the present writ petition.

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4. As already noted above, the original writ petitioner is no more. It is not even the case of the respondents that the petitioner has drawn an amount of Rs.2,616/- against his entitlement of Rs.776/-. In the absence of the respondents parting with an amount of Rs.2,616/-, the question of the petitioner cheating the respondents does not arise.

5. Admittedly, the respondents have paid only an amount of Rs.776/- to the petitioner towards Leave Travel Concession, and there is no dispute about the entitlement of the petitioner for such an amount. But the only reason for initiation of disciplinary proceedings appears to be that the petitioner has claimed full ticket fare for his two minor daughters instead of claiming half tickets. The explanation offered by the petitioner for the same is that his two daughters are well grown and, by their appearance, they look over aged. Therefore, the petitioner was charged full ticket fare while availing the Leave Travel Concession. Whatever the amount claimed by the Transport Authority is the amount that was claimed by the petitioner for reimbursement, on



production of relevant tickets.

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6. The first charge levelled against the petitioner through Charge Memo dated 08.01.1991 is shown to have been established by a letter dated 05.07.1991 issued by the office of the Treasury, Villupuram. The question of proving the charge levelled against the petitioner through Charge Memo dated 08.01.1991 basing upon a letter dated 05.07.1991 does not arise. If at all, there was any evidence to prove the charges against the petitioner, it should have been the evidence available prior to the date of the Charge Memo, i.e., 08.01.1991. Hence, Charge No.1 cannot be said to be proved against the petitioner.

7. The second charge is about mentioning the age of the daughters of the petitioner as 17 years and 14 years. As against the said charge, the charge was denied by the petitioner. He has also filed a copy of the Form-III submitted for availing the benefit of Leave Travel Concession. The said Form-III discloses that the petitioner has mentioned the age of his two daughters as 9 years and 7 years. In the circumstances, Charge No.2, alleging that the petitioner has mentioned the age of his two daughters as 17 years and 14 years, cannot be



sustained.

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8. Be that as it may, whatever the amounts paid to the petitioner No.1 were based upon the documents produced by the petitioner while availing the Leave Travel Concession. Further, the respondents have initiated the disciplinary proceedings under Rule 17(b) of the Tamil Nadu Government Servants (Discipline and Appeal) Rules, but converted the same as that of 17(a) of the Tamil Nadu Government Servants (Discipline and Appeal) Rules, and a minor penalty, rather a trivial punishment, was imposed on the petitioner. Since the charges itself were trivial in nature, and there is no loss caused to the respondents, and the entitlement of the petitioner to the amount of Rs.776/- towards Leave Travel Concession availed during the period from 18.05.1989 to 24.05.1989 is not in dispute, this court is of the considered view that the charges levelled against the petitioner cannot be sustained.

9. Yet another ground on which this court is inclined to interfere with the impugned order of punishment is that the original order of punishment was dated 29.03.1995 and the appeal filed against it were decided by Respondent No.1 only on 13.03.2015, i.e., after a lapse of about two decades. That delay



itself caused prejudice to the petitioner. Had the Respondent No.1 decided the appeal filed by the petitioner immediately after filing the same, the petitioner would have an opportunity to prosecute the litigation in an effective manner. By the time the writ petition came up for consideration, the original petitioner is no more, and it is the legal representatives who are before this court to prosecute the present writ petition. This court is unhesitant in concluding that, because of the delay caused by Respondent No.1 in deciding the appeal filed by the petitioner, great prejudice is caused to the deceased petitioner and for this reason also the appellate order passed by Respondent No.1, as well as the original order of punishment passed by Respondent No.2, are liable to be set aside.

10. In the circumstances, the impugned orders bearing Na.Ka.No.130688/W4/91, dated 29.03.1995 and the order of the 1st respondent in G.O.No.61, dated 13.3.2015 are set aside, and the writ petition is allowed. The amounts, if any, withheld/ recovered from Petitioner No.1 by virtue of the impugned orders, shall be refunded to the petitioner with 6% interest as expeditiously as possible, at any rate within a period of eight weeks from the date of receipt of a copy of this order. No costs. Connected



miscellaneous petitions, if any, shall stand closed.

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27.11.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

MUMMINENI SUDHEER KUMAR, J.

skr

To

1. The Principal Secretary to Government of Tamil Nadu,
School Education Department (Higher Secondary),
Fort St.George, Chennai – 600 009.
2. The Director of School Education (Higher Secondary Schools),
DPI Complex, College Road, Chennai – 600 006.
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