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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-03-2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE K.RAJASEKAR**

WP No.31924 of 2023

P.Elangovan

.. Petitioner

-VS-

1.The Registrar-General,
High Court,
Chennai-104.

2.The Principal District Judge,
Salem District,
Salem.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records of the second respondent in ROC.No.6453/2017 dated 22.03.2018 and the consequential order passed by the first respondent in ROC No.35897/2018/C1 dated 01.02.2019 and quash the same.



For Petitioner : Mr.Karthik Rajan
For Respondents : Ms.V.Kanchana for
Mr.V.Vijayshankar.

ORDER

[ORDER OF THE COURT WAS MADE

BY S.M.SUBRAMANIAM, J.]

The punishment of dismissal from service imposed on the petitioner and the consequential Appellate Order rejecting the appeal, are under challenge in the present writ petition.

2. The petitioner was working as Junior Assistant. He was placed under suspension on initiation of departmental disciplinary proceedings. A charge memo was issued under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, in proceedings dated 01.12.2016. The petitioner submitted his explanations denying the charges. Not satisfied with the explanations, the Disciplinary Authority appointed an Enquiry Officer, who in turn conducted enquiry and submitted his Final Report holding that the charges against the petitioner are held proved. The



Report of the Enquiry Officer was accepted by the Disciplinary Authority and second show cause notice was issued by enclosing copy of the enquiry report seeking further objections from the delinquent Officer on the findings of the Enquiry Officer. The petitioner submitted his defence statement.

3. Considering the materials available on record, the Disciplinary Authority imposed penalty of dismissal from service. The petitioner preferred an appeal before the first respondent, which was rejected in April 2018. Thus the present writ petition came to be instituted.

4. Mr.Karthik Rajan, learned counsel for the petitioner, would mainly contend that the deposition and the demeanour of the witness have not been properly considered by the Disciplinary Authority and the Appellate Authority. The various statements recorded during the course of enquiry would be sufficient to form an opinion that the major penalty of dismissal from service is disproportionate to the gravity of charges framed against the writ petitioner.

5. Mr.Karthik Rajan, learned counsel for the petitioner, drew



our attention with reference to the statements recorded before the Enquiry Officer. Relying on the said statement, it is contended that the punishment of dismissal from service is excess and required interference.

6. Ms.Kanjana, learned counsel for the respondents, would oppose the contention by stating that the petitioner has involved in serious misconduct. The procedures as contemplated were scrupulously followed. The petitioner participated in the process of enquiry and defended his case. Thus there is no infirmity in the process adopted for concluding departmental disciplinary proceedings. The grounds raised by the petitioner regarding the statement of witnesses deserve no merit consideration, since the Enquiry Officer, Disciplinary Authority and the Appellate Authority have independently considered the merits and the documents available on record. Therefore, further consideration of facts may not be required in the present writ petition.

7. We have considered the rival submissions made on behalf of the parties to the lis on hand.



8. The six charges framed against the writ petitioner and that

are as follows:-

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“Charge No.1:

That while you, Thiru P.Elangovan, during your tenure as Junior Assistant in the Mobile Court, Salem, when the Judicial Magistrate has not taken any case on file, you created a record as if the cases in STC.No.2831/2016, 2834/2016 and 2841/2016 were taken on file and fine were imposed and collected the amount and misappropriated the same.

Charge No.2:

In continuation of the said charge, you created a fake receipt in white paper by affixing the court round seal and the seal of the Presiding Officer of the court and thereby you misused the seals and deceived the Traffic Police, litigant public and the Judiciary.

Charge No.3:

When there was no case taken on file after 03.11.2016, till 12.11.2016 you received the documents of 25 cases from Traffic Police and collected amount for the said cases and misappropriated the said amount. The amount misappropriated by you was recovered by the police. In the said circumstances, by committing misappropriation caused shame to the Judiciary.



\Charge No.4:

In the fake receipt created and issued by you, you impersonated as if the Magistrate at the court put his signature by using the official seal of the officer and thereby you cheated the litigant public, Traffic Police personnels and the Judiciary.

Charge No.5:

When there was no case taken on file after 03.11.2016, you prepared fine receipts (4 Nos.), in which you filled STC number as STC.No. 2831/2016, 2832/2016, 2833/2016 and 2834/2016, the name of the accused, fine amount and other particulars, then you tried to commit forgery, this was found by the court, at that time you erased the said particulars by using correction pen and thereby you caused shame to the Judiciary.

Charge No.6:

The Magistrate imposed fine of Rs.50/- for the following cases for traffic offences:-

- 1)STC.No.2629/2016 Receipt No.6653090 Rs.50/-*
- 2)STC.No.2630/2016 Receipt No.6653091 Rs.50/-*
- 3)STC.No.2631/2016 Receipt No.6653092 Rs.50/-*
- 4)STC.No.2632/2016 Receipt No.6653093 Rs.50/-*
- 5)STC.No.2650/2016 Receipt No.6653911 Rs.50/-*
- 6)STC.No.2651/2016 Receipt No.6653912 Rs.50/-*
- 7)STC.No.2652/2016 Receipt No.6653913 Rs.50/-*
- 8)STC.No.2653/2016 Receipt No.6653914 Rs.50/-*
- 9)STC.No.2654/2016 Receipt No.6653915 Rs.50/-*



- 10)STC.No.2655/2016 Receipt No.6653916 Rs.50/-*
11)STC.No.2656/2016 Receipt No.6653917 Rs.50/-
12)STC.No.2657/2016 Receipt No.6653918 Rs.50/-
13)STC.No.2658/2016 Receipt No.6653919 Rs.50/-
14)STC.No.2660/2016 Receipt No.6653921 Rs.50/-
15)STC.No.2663/2016 Receipt No.6653924 Rs.50/-
16)STC.No.2664/2016 Receipt No.6653925 Rs.50/-
17)STC.No.2666/2016 Receipt No.6653927 Rs.50/-
18)STC.No.2671/2016 Receipt No.6653932 Rs.50/-”

9. Perusal of records would reveal that rules of natural justice has been followed. Sufficient opportunities were afforded to the delinquent Officer. The delinquent Officer defended his case. The charges are held proved before the domestic enquiry. The report of the Enquiry Officer was accepted by the Disciplinary Authority. The Disciplinary Authority accepting the findings of the Enquiry Officer considered further objections submitted by the petitioner and elaborately made finding in the order impugned with reference to all the charges framed against the writ petitioner.



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10. The findings of the Disciplinary Authority reveal that the petitioner had no authority to collect any amount from the police personnel. For any reason, he was authorised to collect the fund amount only from the party concerned. Thus the proved misconducts are serious in nature and amounting to misappropriation and forgery of documents. Based on the proved charges, the penalty of dismissal from service was imposed. The Appellate Authority also considered the grounds raised by the petitioner independently and rejected the appeal.

11. The power of judicial review of the High Court is to ensure that the processes through which the decision has been taken in consonance with the Statutes and the Rules in force, but not the decision itself.

12. In the present case, the process as contemplated were scrupulously followed and the contention of the petitioner that the punishment is disproportionate deserves no merit consideration. Thus the punishment of dismissal from service seems to be apt and there is no further



consideration needs to be shown. Consequently, the orders impugned are confirmed and the present writ petition stands dismissed. However, there shall be no order as to costs.

(S.M.SUBRAMANIAM,J.) (K.RAJASEKAR,J.)

04-03-2024

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

- 1.The Registrar-General,
High Court,
Chennai-104.
- 2.The Principal District Judge,
Salem District,
Salem.



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