



WA No.2441 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

WA No.2441 of 2022

Dr.T.S.Selvavinayagam

... Appellant

versus

1.The Government of Tamil Nadu,
Represented by Secretary to Government,
Health & Family Welfare Department,
Secretariat, Chennai-600 009.

2.The Secretary to Government,
Municipal Administration & Water Supply Department,
Secretariat,
Chennai-600 009.

... Respondents

PRAYER: Writ Appeal filed against the order of the learned Single Judge
in WP No.19622 of 2013 dated 16.10.2020.

For the Appellant

:Mr.M.Ravi



WA No.2441 of 2022

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For the Respondents

:Mr.M.Bindran

Additional Government Pleader
for respondents 1 and 2

JUDGMENT

(Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*)

This Writ Appeal is filed against the order of the learned Single Judge in WP No.19622 of 2013 dated 16.10.2020.

2. Brief facts of the case:

2.1. The appellant/petitioner, while he was working as Municipal Health Officer, Tiruvottiyur, the Director of Municipal Administration vide charge memo dated 28.12.1996 had initiated disciplinary proceedings against the appellant/petitioner under Rule 17(b) of the Tamil Nadu Civil Service (Disciplinary and Appeal) Rules, for certain lapses alleged to have been committed by him. The charge alleged against him is that he was responsible for the purchase of an abnormal quality of 3000 liters of Flytox insecticide from Shri Ragaventhira Agencies Chennai-94 at an exorbitant rate of Rs.76/- per liter and for incurring a huge expenditure of



WA No.2441 of 2022

Rs.2,28,000/- on particular item and has failed to compare the prevailing market rates before purchase and without adequate budget provision for this item of expenditure in violation of the orders of Government issued in G.O.Ms.No.330, Finance (B & C) Department dated 22.08.1994 and Section 120 of the T.N.D.M.Act, 1920.

2.2. A detailed explanation dated 02.04.1997 has been submitted by the appellant denying the charge framed against him and requested to drop the said charge. Thereafter, the enquiry officer rendered findings holding that the charges were proved. The second respondent passed the final order dated 10.09.1999 imposing the punishment of stoppage of increment for a period of six months with cumulative effect and that the said punishment is inclusive of any period spent on leave during the period of punishment and it will affect the appellant's pension.

2.3. Challenging the said punishment order, the appellant preferred a



WA No.2441 of 2022

review petition before the second respondent. While the same was pending, he filed WP No.33293 of 2012 and pursuant to the order of this Court dated 20.12.2012 made in the said writ petition, the second respondent vide order dated 26.04.2013 had rejected the said review petition. Hence, the appellant has filed the instant writ petition. The learned Single Judge, by order dated 16.10.2020, disposed of the writ petition with the following observation:

Accordingly, the punishment imposed on the petitioner vide order dated 10.09.1999 is modified to that of 'stoppage of increment for a period of six months without cumulative effect and that the punishment will have an effect on inclusive of any period spent on leave during the period of punishment and that it will not affect the petitioner's pension.

2.4. Challenging the order passed by the writ court, the appellant has filed the present intra court appeal.

3. Learned counsel for the appellant submits that the appellant has been falsely implicated in the charges and the allegation in the charge memo that there was a purchase of abnormal quantity of 3000 liters of Flytox



WA No.2441 of 2022

insecticide from Shri Ragaventhira Agencies Chennai- 94 at an exorbitant rate of Rs.76/- per liter thereby incurred a huge expenditure of Rs.2.28,000/- on particular item and thus, there is violation of the orders of Government issued in G.O.Ms.No.330, Finance (B & C) Department dated 22.08.1994 and Section 120 of the T.N.D.M. Act 1920, is false and accordingly the charge memo is liable to be quashed.

4. Even though the appellant has raised a ground in the writ petition that the Government is not a competent authority to impose a punishment as against the appellant, the learned Single Judge has considered the provision under Rule 9 (A) of the Tamil Nadu Civil Service (Disciplinary and Appeal) Rules, and held that since the Superior authority is involved in the aforesaid process, the Government is the competent authority for passing the order and therefore, the said contention of the appellant has been rejected by the writ court. However, considering the fact that review application was pending for a long time, due to which the petitioner/appellant had to file W.P.No.33293 of 2012 and only pursuant to the order of the writ court dated 20.12.2012, the second respondent, vide order dated 26.04.2013 rejected the



WA No.2441 of 2022

review application of the petitioner/appellant. This action on the part of the second-respondent made the writ court to modify the punishment imposed on the petitioner/appellant. Accordingly, the writ court has modified the punishment imposed on the petitioner/appellant to that of stoppage of increment for a period of six months without cumulative effect and that the punishment will have an effect on inclusive of any period spent on leave during the period of punishment and that it will not affect the petitioner's pension.

5. The Hon'ble Supreme Court in the case of ***Prem Nath Bali vs High Court of Delhi reported in 2015 (16) SCC 415***, as well as this Court in WA No.2924 of 2019 dated 12.09.2019, have held that normally court will not interfere with the punishment imposed by the authority unless it is in violation of the procedure or such punishment is disproportionate or shocking to the conscience. Therefore, we of the view that the decisions of the Hon'ble Supreme Court as well as this Court cited supra squarely applies to the facts of the present case on hand. In such circumstances, considering the gravity of charges as well as the punishment imposed having been



WA No.2441 of 2022

modified by the learned Single Judge, we do not wish to interfere with the order of the writ court. There is no merit in the writ appeal and consequently, the writ appeal stands dismissed. There shall be no order as to costs.

[D.K.K., J.] [K.B., J.]
03.07.2024

Index : Yes/No
Neutral Citation : Yes/No
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WA No.2441 of 2022

D.KRISHNAKUMAR, J.
and
K.KUMARESH BABU, J.

(mrn)

WA No.2441 of 2022

03.07.2024