



W.P.No.32754 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM

THE HONOURABLE MRS. JUSTICE **R.KALAIMATHI**

W.P.No.32754 of 2012

T.Periasamy

...

Petitioner

Vs.

1.State of Tamil Nadu, rep. by its
Secretary to Government,
School Education Department,
Secretariat, Chennai-9.

2.Director of School Education,
Chennai-6.

...

Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 1st respondent in G.O.(1D) No.405, School Education Department, dated 08.12.2011 and quash the same and to direct the respondents to confer all the consequential benefits to the petitioner.

For Petitioner

: Mr.V.Sivalingam

For Respondents

: Mr.T.M.Rajangam,
Government Advocate.



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ORDER

The G.O.(1D) No.405, School Education Department, dated 08.12.2011 passed by the first respondent is under challenge.

2. The petitioner initially joined as P.G. Assistant (English) on 17.11.1978. He was promoted as Headmaster in the Higher Secondary School in 1993 and further promoted as District Educational Officer on 28.03.2005. The petitioner would further submit that he was subsequently promoted as Chief Educational Officer (Sarva Shiksha Abhiyan) in August 2007 and posted in Pudukottai. He was superannuated from the service on 31.03.2010. A charge memo dated 26.03.2010 was issued on 31.03.2010 for the period from 2006-2007 till 06.11.2008, a sum of Rs.91,75,332/-was sanctioned to the Sarva Shiksha Abhiyan Scheme to Pudukkottai District by the government, in which the petitioner has not taken any action to get the receipt for a sum of Rs.4,04,330/- from the Non Government Organization, Thai Charitable Trust. The petitioner gave a detailed explanation on 14.05.2010; for not accepting his explanation, a charge memo was issued on 26.03.2010.



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3. Based on the order of this Court in W.P.No.16519 of 2011, an order was passed to the effect that the respondents should pass the final order within a period of four weeks from the date of receipt of the copy of that order. Thereafter, a final order in G.O. (1D) No. 405, School Education Department, dated 08.12.2011 imposed the punishment of a cut in pension at Rs.300/- per month for a period of one year, holding that for non-submission of the expenditure receipts and utilization certificate by the non-government organization, he did not take any action against the said non-government organization. He took serious efforts to collect the expenditure receipts and utilization certificates on so many occasions, however the petitioner was imposed with punishment. Hence, this Writ Petition.

4. Heard Mr. V. Sivalingam, the learned counsel for the petitioner, and Mr.T.M.Rajangam, the learned government advocate, appearing for respondents 1 & 2.

5. While the petitioner was serving as Chief Educational Officer



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[Sarva Shiksha Abhiyan], he did not take any action to get the expenditure receipts and utilization certificate from the non-government organization [Thai Charitable Trust] for a sum of Rs. 4,04,330/-.

6. The moot question is whether the punishment is disproportionate to the charges framed against the delinquent officer?

7. Originally, in a letter dated .03.2008 in ந.க.எண்.2069/இஒக/அகஇ /2007, the State Project Director of Sarva Shiksha Abhiyan issued certain guidelines to be followed by the district project coordinators, and the amount which has to be allocated on or before 28.03.2008 with non-governmental organizations. By a letter dated 26.11.2008, a Memo of Understanding was entered into with Non Government Organization, Thai Charitable Trust which was cancelled by a proceedings dated 26.11.2008.

8.The petitioner was posted as Chief Educational Officer [Sarva Shiksha Abhiyan], in August 2007. The contents of the charge memo is that the petitioner was working as Chief Educational Officer [Sarva



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Shiksha Abhiyan], as per the audit report for an amount of Rs.91,75,332/- which was released to the Thai Charitable Trust for the period from 2006-2007 till 06.11.2008 for an amount of Rs.51,43,343/- for which he failed to collect the expenditure receipts and utilization certificate and demand draft was issued to the said trust on 28.03.2008 while he was officiating as Chief Educational Officer [Sarva Shiksha Abhiyan] and he failed to follow the procedures, the charges were framed against him for procedural lapses under Regulation 20(1) of the Education Schemes for all and the Tamil Nadu Government Servants' Conduct Rules.

9. The petitioner had given an explanation stating that, as per the charges, only the Thai charitable trust is under obligation to submit the expenditure receipts and utilization certificates, and while so he was serving at Pudukottai, he did not make any efforts to collect those particulars, and he has listed out the steps taken by him to collect those details which are given hereunder:

(i) He sent letters to the Thai Charitable Trust on 06.05.2008 and a telegram was sent by him to the said trust on 14.11.2008.

(ii) Again, on 02.12.2008 and 18.12.2008 he sent letters to the



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Trust to submit the expenditure receipts and utilization certificate.

(iii) He submitted the expenditure receipts and utilization certificate to the in-charge of the trust and the details were sent to the project directors.

(iv) On 24.12.2008 he launched a complaint before the Pudukottai Ganesh Nagar Police Station against the said in-charge person of the Thai charitable trust.

(v) Thereafter, he was transferred to Kanniyakumari District on 27.07.2009.

10. It was observed by the Additional Chief Secretary, that the petitioner did not submit the expenditure details then and there, and had he followed the procedures, the procedural lapses would not have occurred, and he has failed to perform his duty without prejudice to the disciplinary proceedings pending against him. However, he was permitted to retire, and a punishment order was passed to the effect that an amount of Rs.300/- per month for a year would be collected from his pension. Against this order, the present writ petition is filed challenging the same.



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11. I have heard the submissions made either side learned counsels and perused the materials available on record.

12. Mr.T.M.Rajangam, the learned Government Advocate appearing for the respondents 1 and 2 would vehemently contend that the reply of the petitioner is that the receipt of the said amount could not be received from the non-governmental organization [the Thai Charitable Trust] and cannot be accepted. The petitioner has not taken any steps to produce the receipt from the Thai Charitable Trust, during his tenure as Chief Educational Officer [Sarva Shiksha Abhiyan] at Pudukottai. He was charged with having committed procedural lapses and irregularities for non production of vouchers to the tune of Rs. 4,04,330/-.

13. As regards the power of the court relating to the judicial review of the order passed by the disciplinary authority, as the Hon'ble Supreme Court in the case of *B.C.Chaturvedi Vs. Union of India* reported in **1995 (6) SCC 649**, it has been observed that:



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"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 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 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



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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 it appropriate to the facts of each case.

The disciplinary authority is the sole judge of facts. Where appeal is presented. The appellate authority has co- extensive 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 781], this Court held at page 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."

14. In **Bhagat Ram vs. State of Himachal Pradesh And Ors** reported in 1983 2 SCC 442, the Hon'ble Supreme Court has held that the High Court does not function as a court of appeal over the findings



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of disciplinary authority. But where the finding is utterly perverse, the court can always interfere with it.

15. Mr. V.Sivalingam, the learned counsel for the petitioner would vehemently contend that an amount of Rs. 300/- per month for a period of 12 months was ordered to be collected. Though it appears to be a meagre amount while the petitioner was officiating as Chief Educational Officer [Sarva Shiksha Abhiyan] at Pudukottai, in fact he took all possible steps to collect the expenditure receipts and utilization certificate from the Non Governmental Organization namely Thai Charitable Trust and he would further contend that the functions/ permission of the said trust was cancelled by the respondents it would show that despite hectic efforts taken by the petitioner as mentioned (*supra*), it did not yield any fruitful results to the petitioner. Therefore, it may be interfered with, and the relief may be moulded.

16. The petitioner took charge as Chief Educational Officer [Sarva Shiksha Abhiyan] at Pudukottai in August 2007. In this regard, the petitioner had sent a proceeding dated 06.05.2008 to the Thai Charitable Trust, calling upon the in-charge person to submit the



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relevant expenditure receipts and utilization certificate ; he had sent a telegram in this regard on 14.11.2008. On 02.12.2008 again, a warning letter was sent by the petitioner. Again, a similar letter dated 18.12.2008 was sent to the said trust through registered post. Finally, on 24.12.2008 the petitioner launched a complaint against the said in-charge person of the said Thai Charitable Trust. He was relieved from the said post on 27.07.2009 and transferred to Kanniyakumari district. However, the defense taken by the petitioner was not accepted by the appointing authority, the Additional Chief Secretary, after the said order came to be passed.

17. In conclusion, as the Chief Educational Officer, the petitioner had a responsibility to ensure proper management of funds and operations under his jurisdiction. The prolonged period of non-compliance by the Thai Charitable Trust and the subsequent need for a formal complaint might have been perceived as a failure in adequately supervising and managing the trust's activities. The appointing authority might have felt that more proactive and assertive management could have mitigated these issues sooner, thus ensuring better utilization of resources and smoother program implementation. Therefore, while the



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petitioner did take steps to address the issue, the appointing authority likely viewed these steps as delayed, insufficiently proactive, and ultimately ineffective. This perception of lack of diligence and assertiveness in fulfilling his duties might have led to the decision to transfer him to another district. Considering the submission made as stated above, instead of the punishment imposed, an amount of Rs.1000/- is ordered to be remitted by the petitioner, no further order is necessary.

18. In view of the afore stated observations, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed, if any.

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Index: Yes/No
Internet: Yes/No
Speaking order/Non Speaking order
Neutral: Yes/No

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To
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- 1.The Secretary to Government,
School Education Department,
Secretariat, Chennai-9.
- 2.The Director of School Education,
Chennai-6.
- 3.The Section Officer,
V.R.Section, High Court,
Madras.



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R.KALAIMATHI,J.

jrs

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