



Writ Petition No.6713 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.03.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Petition No.6713 of 2024
and W.M.P.Nos.7470 of 2024**

- 1.Union of India,
Represented by its Chief Post Master General,
Tamil Nadu Circle,
Anna Salai, Chennai – 600 002.
 - 2.Postmaster General,
Southern Region, (TN),
Madurai 625 002.
 - 3.Director of Postal Services,
O/o.Post Master General,
Southern Region (Tamil Nadu).
Madurai - 625 002.
 - 4.Senior Superintendent,
Rail Mail Services “MA” Division,
Madurai – 625 001.
 - 5.Senior Superintendent of Post Offices,
Dindigul Division,
Dindigul – 624 001.
- ... Petitioners

Vs

T.Remma

... Respondent



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PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records pertaining to the order dated 25.09.2023 in O.A.384/ 2015 on the file of the Central Administrative Tribunal Chennai Bench and quash the same and pass further orders.

For Petitioners : Mr.S.Janarthanam
SPCGSC

For Respondent : Mr.R.Malaichamy

ORDER

(Order of the Court was made by Mr.K.KUMARESH BABU.,J.)

This Writ Petition had been filed challenging the order passed by the Central Administrative Tribunal, wherein, the punishment imposed on the respondent herein had been set aside on the score that the same as disproportionate and harsh and thereby directing the petitioners herein to reinstate the respondent in service with all consequential service benefits, however, had granted liberty to conduct a *denova* enquiry, if any, afresh following the due process of law.

2. Heard Mr.S.Janarthanam, learned Senior Panel Central Government



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Standing Counsel for the petitioners and Mr.R.Malaichamy, learned counsel appearing on behalf of the respondent.

3. Mr.S.Janarthanam, learned SPCGSC appearing on behalf of the petitioners would submit that the complaint that has been raised against the respondent by an account holder, alleging that the respondent had not given credit to the amount that was deposited by her into her account and in respect of the repeated demands for handing over the passbook, the respondent had not returned the passbook. Therefore, the disciplinary proceedings were initiated against her and the disciplinary authority had imposed a punishment of debarring the respondent from appearing in the recruitment examination for the post of Postman for a period of three years. However, the third petitioner herein exercising its power of review on the opinion that the punishment imposed by the disciplinary authority do not commensurate that the gravity of offence and again issued a show cause notice to the respondent and after due enquiry, the order of punishment of removal from engagement was made. He would further submit that against the said order of removal, the respondent had filed an O.A. before the



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Tribunal. Even though, various contentions were raised as regards to the conduct of enquiry, the Tribunal had not interfered with the findings of the disciplinary authority as the order of initial punishment imposed by the disciplinary authority, had not been challenged by the respondent and only the order of Reviewing Authority had been challenged. But, however, taking into consideration the length of service of the respondent, the Tribunal had set aside the order of punishment on the ground that the said punishment was disproportionate and also too harsh. The Tribunal, further had granted liberty to the petitioners to conduct a *denova* enquiry afresh following due process of law. But, in the interregnum the Tribunal had directed to reinstate the respondent into the service with all consequential benefits. He would submit that the Tribunal had wholly misdirected itself in coming to such a conclusion that the punishment was disproportionate. No reasons whatsoever was assigned by the Tribunal as to why it came to such a conclusion that the punishment was disproportionate.

4. He would submit that the punishment awarded by the petitioners was not disproportionate and commensurates for the delinquency that had



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delinquency that the respondent had been charged with. He would submit that the petitioners had been given liberty to conduct a *denova* enquiry, if any, afresh following the due process of law, such exercise should be completed within a period of three months. In such circumstances, it is imperative that when the order of punishment which had been held disproportionate, was set aside by the Tribunal, the respondent should be reinstated into services with all consequential service benefits and therefore, there is no infirmity or error in the order impugned before this Court which would warrant interference of this court.

6. We have considered the submissions made by the learned counsel appearing on either side and perused the materials available on record before this Court.

7. The respondent herein had been proceeded on the basis of a charges framed against her. Initially, the disciplinary authority had imposed a punishment of debarring the respondent for appearing in the future recruitment examination for a period of three years. However, the Appellate



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Authority, invoking the powers of revision, *suo motto* had issued a show cause notice calling upon the respondent as to why the punishment should not be enhanced. The respondent had also submitted her reply and having not being satisfied with her reply, an order of removal from engagement was issued by the Appellate Authority. An appeal filed against the same had also been rejected. Further, the Tribunal on consideration all the facts, had given a finding that the punishment that had been imposed upon the respondent was disproportionate and very harsh by considering her unblemished service for 19 years. Even though, the learned counsel for the petitioner had persuaded us to disagree with the said finding, we do not wish to interfere with the said findings on the facts and circumstances of this case.

8. The Tribunal had given liberty to the petitioners to conduct a *denova* enquiry, if any, afresh following the due process of law. In that context, the Tribunal had also directed the petitioners to reinstate the respondent with all consequential service benefits. The direction to conduct a *denova* enquiry, afresh after following due process of law, in our view would not arise in the facts of this case.



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9. The disciplinary proceedings had culminated into a punishment by the disciplinary authority and had not been challenged by the respondent. The Appellate Authority had also issued a show cause notice to which a reply had also been submitted by the respondent. The Tribunal had not found any fault with the procedure followed by the Appellate Authority or it was not the case that the respondent was not afforded an opportunity of personal hearing. The Tribunal had only given a finding that the punishment imposed was disproportionate and was very harsh, which we have also accepted to be correct. In such an event, the matter could be remitted back to the Revisional Authority to pass appropriate orders of punishment than that of the punishment imposed, which had been found to be disproportionate.

10. In such circumstances, it is true that the respondent should be reinstated into service. The Gramin Dak Sevaks (Conduct and Engagement) Rules, 2011, does not provide any contingency in the event of such punishment being found to be disproportionate and set aside with liberty to the authorities to proceed afresh. However, Rule 10 of the CCS (CCA) Rules,



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in such event, provides that the period from which the original order which had been set aside was passed and the further orders to be made by the concerned authority would be a period of deemed suspension. For better appreciation, the relevant Rule is extracted hereunder:-

“Rule 10. Suspension:-

.....

(4)Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of Court of Law and Disciplinary Authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the Government servant shall be deemed to have been placed under suspension by the Appointing Authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders:

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the Court has



passed an order purely on technical grounds without going into the merits of the case.”

11. The order could have been sustained, if the punishment had been set aside by exonerating the respondent, that is not the case here. For the said reason, we are inclined to interfere with the said direction issued by the Tribunal directing reinstatement with continuity of services with all other benefits. This Writ Petition is disposed of with the following directions and the order of the Tribunal is modified to the extent indicated below:-

(a) The Revisional Authority shall consider the case of the respondent and pass appropriate punishment than the punishment that was imposed earlier in its order dated 12.09.2014

(b) The petitioners shall consider the case of the respondent on passing of such order, shall make appropriate orders as to how the period between 12.09.2014 till the date of passing the appropriate punishment pursuant to this order to be treated.

(c) On such orders being passed, the petitioners shall calculate the monetary benefits that would be available to



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the respondent. Such exercise shall be completed by the third respondent within a period of six weeks from the date of receipt of a copy of this order.

12. With the above directions, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.)

(K.B., J.)

19.03.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
gba

To

The Registrar,
Central Administrative Tribunal,
Madras Bench, High Court Buildings,
Chennai – 600 104.



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and
K.KUMARESH BABU.,J.

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