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W.P.No.11908 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2024

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

W.P.No.11908 of 2024

E.Rajendra Kannan

.. Petitioner

Vs

1. The Registrar General,
High Court of Madras,
Chennai.

2. Mr.Jothiraman

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the order in R.O.C.No.13/2021/Con.B2 of the 1st respondent dated 20.01.2023 and quash the same.

For the Petitioner : Mr.V.Raghavachari
Senior Counsel
for Mr.S.Conscious Ilango

For the Respondents : Mr.Suhrith Parthasarathy



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ORDER

(Order of the Court was made by
S.M.SUBRAMANIAM, J.)

The order of punishment dated 20.01.2023 imposing the punishment of stoppage of increment for one year with cumulative effect is challenged in the present writ petition.

2. The writ petitioner was appointed as Civil Judge and duly promoted to the cadre of Senior Civil Judge. A charge memorandum was issued under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules in proceedings dated 15.12.2021. The charge against the petitioner reads thus:-

"That you, Thiru.E.Rajendrakannan, while functioning as Sub Judge, Sankari, inspite of the instruction from the Principal District Judge, Salem, had deliberately failed to intimate the missing of case records to Registrar (Vigilance) High Court, Madras, as mandated in High Court's Circular in Roc.No.2055/A/2009/F1, dated 14.05.2009, as detailed in the statement of imputations in Annexure-II, for the reason best known to you.

Thus, you have committed acts of serious misconduct, viz., gross negligence, dereliction of duty, wilful disobedience and insubordination



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and have also failed to maintain absolute integrity and devotion of duty and have acted in a manner, which is unbecoming of a Judicial Officer, violating Rule 20 of "The Tamil Nadu Government Servants' Conduct Rules, 1973", thereby you rendered yourself liable to be proceeded with under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules."

Annexure-II to the charge memorandum provides statement of imputations in support of the charges, Annexure-III denotes the list of documents and Annexure-IV provides list of witnesses. Thus, we do not find any infirmity in respect of the charges framed against the writ petitioner.

3. The petitioner submitted his explanation denying the allegations. Not satisfied with the explanation, the Disciplinary Authority appointed an enquiry officer, who, in turn, conducted enquiry by affording opportunity to the delinquent officer. The enquiry officer submitted his final enquiry report holding that the charge against the writ petitioner is proved. The finding of the enquiry officer was accepted by the Disciplinary Authority and the punishment of stoppage of increment for one year with cumulative effect was imposed.



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4. Mr.V.Raghavachari, learned senior counsel appearing for the petitioner, would submit that the charge would not constitute misconduct under the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules. Initiation of disciplinary proceedings on such routine affairs would result in discouraging of judicial officers. The charge framed based on the circular dated 14.05.2009 has no relevancy with reference to the allegations set out in the charge memo. Thus, the disciplinary proceedings itself has been proceeded based on the erroneous footing and thus, the punishment is to be set aside.

5. Mr.Suhrith Parthasarathy, learned counsel appearing for the respondents would oppose by stating that the lapses noticed had resulted in initiation of disciplinary proceedings. Procedures as contemplated were followed scrupulously. The finding of the enquiry officer was accepted by the Disciplinary Authority and punishment was imposed. Since the punishment is not a major penalty, no interference is called for. Thus, the writ petition is to be rejected.



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same to the Registrar (Vigilance), High Court, Madras as per the circular dated 14.05.2009 and submit a report to the Court of Principal District Judge, Salem.

8. Perusal of the circular of the High Court dated 14.05.2009 would reveal that a direction was issued to all the judicial officers across the State that whenever there is any instance of missing of case records, the same should be reported immediately either to the Registrar or to the Special Officer, Vigilance and Cell, High Court, Madras.

9. In the present case, the records in the EP proceedings were missed long back and prior to the joining of the writ petitioner in the post of Subordinate Judge at Sankari. After his joining, the petitioner received the letter dated 05.10.2016 from the learned Principal District Judge, Salem. The lost papers were reconstructed and intimation was provided to the learned Principal District judge. Therefore, the allegation in the charge memo that the petitioner failed to intimate the missing of case papers is incorrect. The petitioner joined in the post of



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Subordinate Judge, Sankari, on 18.09.2015 and even prior to his joining, the case papers were missing and the same was duly intimated to the High Court by the petitioner's predecessor. That being so, as per the instructions of the learned Principal District Judge, Salem, he had reconstructed the papers and submitted a report to the learned Principal District Judge. Thus, the circular of the High Court has no relevance with reference to the charge memorandum.

10. The only omission committed by the petitioner was that he has failed to provide intimation to the Registrar (Vigilance) as directed by the learned Principal District judge, Salem, in his letter dated 05.10.2016. However, the petitioner has intimated the fact regarding reconstruction of papers to the learned Principal District Judge, Salem.

11. As per the High Court circular, the instance of missing of court records alone should be intimated to the High Court. But, in the present case, it was not related to missing of case papers, but the learned Principal District Judge instructed the petitioner to reconstruct the missing case papers and intimate the same to the High Court.



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Instead of intimating the same to the High Court, he has submitted a report to the learned Principal District Judge, Salem. The said lapse cannot be construed as a serious misconduct. It may be considered as a routine lapse since no motive or intentional act has been established.

12. The scope of interference in the departmental proceedings by the High court in exercise of power of judicial review is limited. In the present case, the enquiry was conducted in compliance with the rules of natural justice. The enquiry officer held that the charge is proved. The Disciplinary Authority accepted the report and imposed the punishment of stoppage of increment for one year with cumulative effect. Regarding the quantum of punishment, we are of the considered opinion that the lapse allegedly proved against the writ petitioner cannot be construed as serious warranting punishment of stoppage of increment for one year with cumulative effect. The punishment of stoppage of increment for one year with cumulative effect will affect the pensionary benefits of the judicial officer and the proved charge, in our considered opinion, is only a mistake. More so, it cannot be considered as a lapse in view of the fact that the High



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Court circular is irrelevant with reference to the allegations set out in the charge memo. The Judicial Officer has provided information to the learned Principal District Judge, Salem, regarding the reconstruction of the missed bundle.

13. For all these reasons, we found that the punishment of stoppage of increment for one year with cumulative effect is not in proportionate with the gravity of the mistake identified. Thus, we are inclined to interfere with the order of punishment.

14. While setting aside the order of punishment on the ground that the quantum of punishment is disproportionate to the gravity of the proved charges, the matter will have to be remanded back to the Disciplinary Authority for imposing any lesser penalty.

15. In the present case, we found that the High Court circular relied on by the Disciplinary Authority in the charge memo has no relevance with reference to the statement of imputations against the



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writ petitioner. High Court circular indicates that missing of case papers must be intimated to the High Court immediately, which had already been done by the predecessor of the petitioner. The allegation against the writ petitioner was that he has not intimated the reconstruction of case papers. However, the petitioner has intimated about the reconstruction of case papers to the learned Principal District Judge, Salem. That being the factum established, we are not inclined to remand the matter and decided to set aside the punishment.

16. Accordingly, the impugned order dated 20.01.2023 in R.O.C.No.13/2021/Con.B2 of the first respondent is quashed. The writ petition is allowed. No costs.

(S.M.S., J.) (C.K., J.)
25.06.2024

Index : Yes
NC : Yes

sra
To

1. The Registrar General,
High Court of Madras,
Chennai.



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S.M.SUBRAMANIAM, J.
AND
C.KUMARAPPAN, J.

(sra)

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