



W.P.No.14581 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 21.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.14581 of 2020
and W.M.P.Nos.18076 & 20004 of 2020

S.A.Divyalakshmi

...Petitioner

vs.

1. Government of Tamil Nadu,
Rep. by its Secretary,
Tamil Development & Information Department,
Fort St. George,
Chennai – 600 009.
2. The Director/Commissioner,
Directorate of Stationery and Printing,
110, Anna Salai,
Chennai – 600 002.
3. The Joint Director,
Department of Stationery and Printing,
110, Anna Salai,
Chennai – 600 002.
4. The Works Manager,
Government Central Press,
Department of Stationery and Printing,
Mini Street, Vallalar Nagar, Chennai – 600 001.
(R3 & R4 impleaded vide order dated 02.12.2020
made in W.M.P.No.20002/2020 in W.P.No.14581/2020)

... Respondents



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Prayer : Writ Petition filed under Article 226 of Constitution of India, for issuance of Writ of Certiorarified Mandamus, to call for the concerned records from the 1st and 3rd respondent, quash the order of the 1st and 3rd respondent bearing G.O.(Pani)No.87, Tamil Development and Information (EA-1) Department, dated 01.09.2020 imposing the punishment of stoppage of increment for three months without cumulative effect and recovery of Rs.28,737/- on the petitioner and the consequential order of the 3rd respondent dated 21.10.2020 bearing No.Se.Mu.A.No.R1/8227/2016 as illegal, arbitrary and contrary to law and consequently direct the respondents to restore the increment, pay arrears of salary, also refund the recovery if any made, restore the original seniority and effect promotion on that basis.

(Prayer amended vide order dated 02.12.2020 made in W.M.P.No.20002/2020 in W.P.No.14581/2020)

For Petitioner : Mr.Balan Haridas

For Respondents : Mr.H.Rajendran for R1 & R2
Additional Government Pleader

ORDER

The Writ Petition has been filed seeking to quash the orders passed by the respondents 1 and 3 as illegal, arbitrary and contrary to law and consequently to direct the respondents to restore the increment, pay arrears of



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salary, also refund the recovery if any made, restore the original seniority and effect promotion on that basis.

2.The brief facts of the case are as follows:

The petitioner joined as Junior Foreman in the second respondent Department. The petitioner was working in the Planning Department, and was directed to make ready the postal ballot covers for the Legislative Assembly Election 2016 and for the same, the sample cover was prepared with the approval of the Assistant Works Manager. The said sample was sent for approval and in the interregnum, the petitioner was transferred from the Planning Department to the Budget Department. After that, the petitioner was charge sheeted on the ground that the size of the cover for the postal ballot was in the dimension of 12 x 26 cms instead of 10 x 24 cms and in view of the same, there was loss incurred to the Government. The petitioner denied the charges and thereafter, a farce enquiry was conducted and the first respondent has imposed punishment of stoppage of increment for three months without cumulative effect and to recover Rs.28,737/-. Hence, the writ petition.



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3.Learned counsel for the petitioner submitted that the petitioner joined the service of the second respondent on 22.04.2013 and she was working in the Government Central Press, and discharging her work sincerely, efficiently without any room for complaint. The charge memo dated 08.11.2016 was issued by the second respondent under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. In that, the two charges were levelled against the petitioner. **The first charge was that the Tamil Nadu Legislative Assembly Election 2016 postal ballot paper, cover-A and Form-13B ought to have been made ready in cover measuring size of 10 x 24 cms and instead of that, job order was given for 12 x 26 cms and because of that the Department was condemned by the Election Commission and therefore, the petitioner violated Rule 20(1) of the Conduct Rules. The second charge was that by printing 8,50,000 covers in wrong size resulted in covers not able to use and incurred loss to the Government to the tune of Rs.4,03,632/- thereby, the petitioner violated Rule 20 of the Conduct Rules.**

4.Learned counsel further submitted that on 24.11.2016, the petitioner submitted her interim explanation and denied the charges levelled against her and in the said explanation, pointed out that she was working in the Planning



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Department only upto 25.11.2015 and she was transferred to the Budget Department on 26.11.2015 and that the work relating to the printing of cover for the postal ballot was carried out in the Planning Department after that she was relieved from the said Department. Therefore, she is not responsible for the printing of the covers in the wrong size and consequent loss to the Government.

5.This was brought to the notice of the second respondent after more than one year from the date of transfer from the Planning Department. The petitioner filed an application on 23.11.2016 under the Right to Information Act requesting to furnish the following documents:

(i) The files in the Planning Cell regarding 2016 Legislative Assembly Election printing work.

(ii) The letters sent by the Election Commission concerning the 2016 Legislative Assembly Election.

(iii) The Postal Ballot Covers and job order dockets (JOD) concerning the 2016 Legislative Assembly Election.

(iv) The approved proof regarding 2016 Legislative Assembly Election.



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*(v) The records relating to the proof sent
and received pertaining to Planning and Desktop
Publishing Section.*

6.The Public Information Officer of the second respondent by order dated 29.11.2016 informed that the documents sought for by the petitioner cannot be furnished to her in view of Section 8(1)(a) of Right to Information Act. Thereafter, the petitioner preferred an appeal to the Appellate Authority on 08.12.2016 and also gave a further representation dated 08.12.2016 requesting to permit the petitioner to peruse the files concerning the charges and thereafter, she gave a detailed explanation. He further submitted that the second respondent did not furnish the documents which was referred in Annexure III to the charge memo and did not permit the petitioner to peruse the files concerning the charges, instead by order dated 26.12.2016, an Enquiry Officer was appointed to conduct the enquiry into the charge sheet.

7.Learned counsel further submitted that the Enquiry Officer by his notice dated 26.12.2016 fixed the enquiry on 28.12.2016. However, due to ill health, and the petitioner was admitted in the hospital could not appear for enquiry. When the petitioner was in hospital, she was served with notice dated



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28.12.2016 asking the petitioner to appear for enquiry on 30.12.2016.

Thereafter, the petitioner gave a letter dated 29.12.2016 once again requesting to furnish the documents to enable her to tender her final explanation and requested to furnish the documents before the enquiry commenced on 30.12.2016. The second respondent along with letter dated 26.01.2017 enclosed the copy of the three documents referred to in Annexure III to the charge memo and thereafter, the petitioner gave a detailed explanation to the charge memo on 06.02.2017.

8.The petitioner on joining the second respondent was posted to the Binding Department on 22.04.2013. Thereafter, she was transferred to the Planning Department on 04.08.2014 and the job relating to the postal ballot election cover was received in the Planning Department on 15.09.2015. Thereafter, the job order docket was prepared on 19.09.2015 and the first proof was prepared was sent to the Authority for approval. Thereafter on 30.09.2015, the job order docket was sent to the Desktop Publishing Department and the same was received at the Desktop Publishing Department on 01.10.2015.



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9. Before the job order could be executed, the petitioner was transferred from the Planning Department to the Budget Department on 26.11.2015 i.e. even before the proof was approved.

10. Learned counsel submitted that in October 2013, there was a fire accident in the Government Central Press and in that old samples were destroyed and therefore, in respect of 2016 election work, there was no sample available for ready reference. In such circumstances, the petitioner was working under the directions/instructions of her superiors since she had no previous experience in election work.

11. Learned counsel further submitted that the work relating to the 2016 Legislative Assembly Election was received on 15.09.2015 and in respect of Form 13 B, cover for postal ballot paper and for certain other work, there was no sample and therefore, the size could not be ascertained. Form 13 B cover for postal ballot paper, cover A could not be obtained and she was taking steps to get the samples.



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12.The Assistant Works Manager called the petitioner asked as to why the covers have not been made ready and kept for his approval. In such circumstances, the petitioner informed the Assistant Works Manager regarding the unavailability of sample for preparing the covers. He informed that the election work is urgent and only proof need to be sent now and therefore asked the petitioner to make the job order docket and submit for approval. The petitioner has prepared Form 13 B cover for postal ballot and cover A and she has to submit to the Assistant Works Manager directly as Senior Foreman, Top Senior Foreman and other Supervisory posts were vacant. The Assistant Works Manager directed her to prepare the job order docket in respect of postal ballot paper in the size of 12 x 26 cms. Accordingly, she prepared the job order dockets by mentioning “only proof for approval” and submitted for approval to the Assistant Works Manager. Before the proof being approved, she was transferred to the Budget Department.

13.The job order docket was prepared in size of 12 x 26 cms. instead of correct size of 10 x 24 cms. not unilaterally by the petitioner and instead the same was prepared based on the directions/instructions of the Assistant Works Manager.



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14.In spite of the explanation given by the petitioner, the enquiry was conducted in arbitrary manner. In the enquiry, no witness was examined and no documents were marked on the side of the Department.

15.In the enquiry, the petitioner gave a statement and the same was not cross examined. In reality, no enquiry was conducted. While so, the Enquiry Officer submitted his report dated 05.04.2017 as if both the charges levelled against the petitioner were proved. The said report was forwarded to the petitioner along with a letter of the first respondent dated 02.05.2019 and asking the petitioner to give her comments.

16.The Enquiry Officer in his report held that only because of the job order No.1573/15 prepared by the petitioner, the covers were made in the size of 12 x 26 cms. instead of 10 x 24 cms. and consequently, 8,50,000 covers were printed wrongly and dispatched to the various places in the District and thereafter, the mistake was rectified by making the cover in the size of 10 x 24 cms. and sent to the concerned Election Officer in the District and accordingly, both the charges levelled against the petitioner were proved.



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17. On 28.05.2019, the petitioner submitted her comments on the Enquiry Report and demonstrated as to how the findings of the Enquiry Officer is contrary to the evidence on record. The first respondent thereafter issued an order dated 01.09.2020 held that the charges levelled against the petitioner were proved and the punishment of stoppage of increment for three months without cumulative effect was imposed and further without any basis held that the loss to the Government was Rs.57,475/- and in that, the petitioner liability is Rs.28,737/- and the same has to be recovered from her salary.

18. Learned counsel further submitted that despite the request of the petitioner under Right to Information Act to furnish the records mentioned in the charge memo, the same was declined. Those documents would have clearly proved that there was no sample cover available and what was submitted was only a proof and that the same was prepared on the directions/instructions of the Assistant Works Manager.

19. The non furnishing of documents and proceeding with the matter and imposing the punishment is thus in gross violation of principles of natural justice. The petitioner has no previous experience in preparing the materials for election. Even before the approval of sample, the petitioner was transferred



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from the Planning Department to the Budget Department. Therefore, the petitioner is no way liable for the production of wrong size cover i.e. 12 x 26 cms. instead of 10 x24 cms.

20.He further submitted that the Enquiry Officer did not draw proceedings and no proceeding copy was given and the enquiry was held on 07.02.2017 and it was concluded on the same day.

21.Learned counsel further submitted that domestic enquiry conducted in respect of the charge memo dated 08.11.2016 is in violation of principle of natural justice and the enquiry had not been conducted in terms of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Consequently, the punishment imposed on the petitioner is void and not justified.

22.He further submitted that no material was placed to prove the charges and in regard to the alleged loss also, there was no material placed and no proceedings have been initiated for the alleged loss and there had been no notice of recovery. While so, the imposition of punishment as well as the order of recovery is illegal and arbitrary.



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23.The order of the first respondent dated 01.09.2020 imposing the punishment of stoppage of increment without cumulative for three months and order of recovery is without jurisdiction. In respect of the charges levelled against the petitioner, the Assistant Works Manager was also charge sheeted for identical charges. **The Assistant Works Manager stated that in the letter to the Election Commission for preparing the cover did not indicate any size and therefore, the covers were prepared on basis of the size in which it was prepared for the bye election and submitted to the Election Commission for approval and the Election Commission did not reject the specimen. Even before the approval, the petitioner was transferred from the Planning Department and therefore, he could not monitor the matter further. Therefore, on the basis of the explanation and stand of the Assistant Works Manager, it is clear that as far as the second respondent is concerned, he is the approving Authority and Superior to the petitioner. While so, the punishment imposed on the petitioner by the respondents is unjustified.**

24.Learned counsel further submitted that in view of the memo issued on 08.11.2016, subsequently the punishment imposed on 01.09.2020. There was three years delay in completing the enquiry proceedings and the name of the petitioner has been passed over for promotion and many of her



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juniors have been promoted to the next avenue of promotion to the post of Senior Foreman and the petitioner is languishing without promotion for the last three years due to the inordinate delay in completing the enquiry proceedings by the respondents.

25.He further submitted that the Government is the Competent Authority to impose the punishment on the Assistant Works Manager and as the charges were identical, the Government viz., the first respondent has imposed punishment in respect of the petitioner as well as the Assistant Works Manager. As the Government itself has imposed punishment, there is no further appeal within the Department and the order of the first respondent does not indicate any appeal and there is no scope for preferring the appeal. Hence, the petitioner filing the writ petition challenging the order of the respondents 1 and 3.

26.Learned counsel appearing for the petitioner submitted that before the proposal was approved, the petitioner got transferred, and in the enquiry, there was no evidence placed that there is a model cover. He further submitted that there is a contra evidence to show that the petitioner



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cancelled the work as per the directions/instructions of the Assistant Works Manager.

27.Learned counsel appearing for the petitioner further submitted that because of the impugned order dated 01.09.2020, the petitioner lost the chance of being promoted as Senior Foreman. It is purely a case of no evidence.

28.Learned counsel would further submit that the petitioner was eligible for consideration for promotion of Senior Foreman in May 2017 and the name of the petitioner has been passed over for promotion and many of her juniors have been promoted to the next avenue of promotion to the post of Senior Foreman. He further submitted that since the pendency of departmental enquiry and charge memo levelled against her, she was promoted only on 05.05.2023.

29.The counter affidavit has been filed on behalf of the respondents on 23.06.2021.



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30.Learned Additional Government Pleader appearing for the respondents 1 and 2 submitted that among various Sections which are engaged in the field of Printing, the first and foremost Section is the Production, Planning and Control of Printing Section. The general function of the Production, Planning and Control of Printing Section stipulated in the Tamil Nadu Government Press Office Manual are as follows:

Function of the Production Planning Section

Para 170

(1) Scrutiny of works received from the departments with reference to:

- (i) Authorization for printing.*
- (ii) Particulars relating to the specifications for printing.*
- (iii) Particular relating to the number of copies to be printed.*
- (iv) Instructions for delivery.*
- (v) Conformity to the technical feasibility for block making, etc.*
- (vi) Printing in colours and usage of STATE emblem.*

31.The main contention of the respondents is that due to lack of sincerity and callous attitude of the petitioner in preparing the job order docket for the postal ballot paper, cover A, Form - 13 B with standard specimen of 10 x 24



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cms. The petitioner prepared the job order No.1573/15 for printing of postal cover A, Form 13 B with in correct specimen (12 x26 cms.). In view of the same, the Government has incurred a loss of Rs.4,03,632/- and the covers could not be used for any other purposes.

32.Heard the learned counsel for the appearing on either side and perused the materials available on record.

33.In the case on hand, the petitioner was initially working as Junior Foreman in Stationery and Printing Department and joined the service of the second respondent on 22.04.2013. **The petitioner worked in the Planning Department only up to 25.11.2015 and was transferred to the Budget Department on 26.11.2015 and work relating to the printing of covers for postal ballot work was carried out in the Planning Department. The charge memo dated 08.11.2016 issued by the second respondent under Rule 17 B of Tamil Nadu Civil Services (Discipline and Appeal) Rules. The two charges were levelled against the petitioner. The first charge was that printing of postal ballot paper, Cover - A, Form B ought to have been ready in 10 x 24 cms. and instead of job order was given 12 x 26 cms.**



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34.The second charge is that by printing of 8,50,000 covers in wrong size resulted in loss to the Government to the tune of Rs.4,03,632/- thereby the petitioner violated Rule 20(1) of the Conduct Rules.

35.The petitioner filed an application on 23.11.2016 under the Right to Information Act to furnish certain documents pertaining to the charge memo issued to the petitioner and the same was rejected citing Section 8(1)(a) of the Right to Information Act.

Section 8(1)(a) of the Right to Information Act is extracted hereunder:

“(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,

(a)information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;”

36.It is pertinent to mention that the information sought for by the petitioner is in no way connected with the sovereignty and integrity and rejecting by citing the above provision of Right to Information Act by the Public Information Officer is ridiculous and absurd.



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37.The petitioner was transferred to the Planning Department on 04.08.2014 and was worked there only up to 25.11.2015. The job order docket relating to the postal ballot paper election cover was received in the Planning Department on 15.09.2015. Thereafter, the job order docket was prepared on 19.09.2015 and the first proof was sent to the Authority for approval. **There was a fire accident in October 2013 in the Government Central Press and in that old samples were destroyed. Hence, there was no sample available for ready reference in respect of 2016 Legislative Assembly election work.**

38.The Form 13 B cover for postal ballot paper, Cover A were prepared based on the directions/instructions of the Assistant Works Manager and submitted to the Assistant Works Manager as Senior Foreman, Top Senior Foreman and other Supervisory posts were vacant and as per the directions/instructions of the Assistant Works Manager, the petitioner prepared the job order docket in respect of postal ballot paper in size of 12 x 26 cms. instead of size 10 x 24 cms. Accordingly, the petitioner prepared the job order docket by mentioning “only proof for approval” and submitted to the Assistant Works Manager and even before the proof was approved, the petitioner was transferred from the Planning



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Department to the Budget Department. The cover size of 12 x 26 cms. were prepared only based on the directions/instructions of the Assistant Works Manager and the Works Manager and not unilaterally by the petitioner.

39.The petitioner has no previous experience in printing the materials for election since she was working in the Government Central Press and in the absence of sample, she prepared the sample cover based on the directions/instructions of the Assistant Works Manager and the cover size of 12 x 26 cms. was prepared and the same was approved by the Assistant Works Manager. The cover was sent to the Desktop Printing Department for approval and even before the approval, the petitioner was transferred from the Planning Department to the Budget Department.

40.It is pertinent to note that in the enquiry on the side of the Department, no oral evidence was placed and no documents were marked. No proceedings copy was given to the petitioner. The enquiry was held on 07.02.2017 and it was concluded on the same day.

41.It is also to be noted that the fourth respondent is the approving Authority and Superior to the petitioner. In this case, the Assistant Works



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Manager was also charge sheeted for identical charges and he had stated in the letter that the printing of election cover did not indicate any size.

Therefore, the cover was prepared on the basis of the size in which it was approved for bye election and submitted to the Election Commission for approval, the Election Commission also did not reject the said specimen. The Assistant Works Manager was also issued with the punishment of stoppage of increment without cumulative for three months and recovery of Rs.28,737/-.

42.The office cover 12 x 26 can be very well used for sending official communication/intimation and it is not correct to say it will go waste in toto and the same cannot be used for any other purpose except for election work.

43.This Court is not inclined to accept the above contentions for the reasons that due to the fire accident in October 2013, the old samples were destroyed and there was no sample available for ready reference and based on the directions/instructions of the Assistant Works Manager, the cover was prepared by the petitioner and even before the sample was approved, the petitioner was transferred from the Planning Department to the Budget



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Department on 26.11.2015.

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44.It is pertinent to note that in the counter affidavit, it has been stated that the petitioner and the Assistant Works Manager who approved the job order docket were responsible for the loss incurred to the Government in printing the covers mismatched with the specimen and the same is unsustainable for the reason that the petitioner is only a Junior Foreman and she is not the Competent Authority to approve the same. The Works Manager is only the Competent Authority to approve the sample covers and the duty of the petitioner is only to prepare the covers as per the directions/instructions of the Assistant Works Manager and the Works Manager.

45.In view of the above factual matter is of the case, the impugned orders vide G.O(Pani)No.87, Tamil Development and Information (EA-1) Department, dated 01.09.2020 and the consequential order vide No.Se.Mu.A.No.R1/8227/2016 dated 21.10.2020 passed by the respondents 1 and 3 are liable to be quashed. Accordingly, the same is quashed.

46.The respondents are directed to restore the increment, pay arrears of



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salary, also refund the recovery if any made, restore the original seniority and effect promotion on that basis within a period of eight weeks from the date of receipt of a copy of this order.

47.In the result, the Writ Petition stands allowed with the above observations and directions. No costs. Consequently, connected miscellaneous petitions are closed.

21.12.2024

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

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- 1.The Secretary,
Government of Tamil Nadu,
Tamil Development & Information Department,
Fort St. George,
Chennai – 600 009.
- 2.The Director/Commissioner,
Directorate of Stationery and Printing,
110, Anna Salai,
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- 4.The Works Manager,
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J.SATHYA NARAYANA PRASAD, J,

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