



W.P.No.17084 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

CORAM

THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.P.No.17084 of 2020

and

W.M.P.No.188 of 2022
and W.M.P.No.21154 of 2020

V.Rajmohan

...Petitioner

Vs.

1.Government of Tamil Nadu
rep. by Principal Secretary to Government,
Handlooms, Handicrafts, Textiles and Khadi Department,
Secretariat,
Chennai – 600 009.

2.The Director of Handlooms and Textiles,
Chennai – 600 108.

3.The Commissioner fro Disciplinary Proceedings,
Coimbatore.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent, relating to the order in G.O.(3D) No.01, Handlooms, Handicrafts, Textiles and Khadi (E2) Department, dated 01.09.2020, quash the same and to issue consequential directions to the respondents 1 and 2 to reinstate the petitioner in service with consequential benefits of continuity of service back pay and all other attendant benefits.



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For Petitioner : Mr.M.Ravi

For Respondents : Mr.A.M.Ayyadurai,
Government Advocate
for R1 to R3

ORDER

The instant Writ Petition has been filed challenging the order of the Appellate Authority dated 31.03.2016.

2.The learned counsel for the petitioner would vehemently submit that the charge memorandum issued against the petitioner is very much vague and that the Enquiry Officer has not considered the relevant materials, and that while looking at the order of the Disciplinary Authority, there are no material as to how, he arrived at such a conclusion and that the above order is in cryptic nature. The second limb of the argument is that even the Appellate Authority did not apply his mind while passing the order and that, by way of another cryptic order, has confirmed the order of the Disciplinary Authority. It is in this back ground prayed to interfere with the order of the Appellate Authority.

3.Contending contra, the learned Government Advocate would vehemently submit that the order of the Disciplinary Authority and the Appellate Authority is a well considered order, and has been passed after taking



into consideration of the explanation of the petitioner and the documents relied by the Management. It is the further submission of the learned Government Advocate that, in the judicial review, this Court cannot reappreciate the evidence, except where there is a perversity over the findings of the Enquiry Officer.

4.I have given my anxious consideration to either side submissions.

5.It is well settled principles of law that while exercising the power of judicial review, this Court cannot reappreciate the evidence, however, in order to find out whether the Enquiry Report is based upon the available material, must make some threshold attempt to find that the Enquiry report is supported with some materials. If we look at the order of the Disciplinary Authority, what emerge is the enquiry was entrusted with the Enquiry Officer on 27.02.2012, and the charge memorandum dated 12.11.2012 was issued to the petitioner on 10.12.2012. After serving the charge memorandum, the domestic enquiry was commenced on 29.10.2014, and ended on 12.02.2016. It further emerge that, the Enquiry Officer has examined 76 witnesses, and marked 44 documents and on the side of the defence, 3 witnesses were examined.

6.The main contention put forth by the learned counsel for the petitioner is that the charges framed is vague. To appreciate the above contention, this



Court deems it appropriate to extract the charges hereunder:

Charge:

“While you (A.O-1) Thiru.V.Rajmohan, Selection Grade, Handloom Inspector and (AO-2) Thiru.M.Ratna Ravaneswaran, formerly Assistant Director (Enforcement) were working at O/o.Deputy Director of Handlooms and Textiles, Salem District during the last week of May 2009, demanded from 49 Handloom weavers co-operative Societies under the jurisdiction of the Deputy Director of Handlooms and Textiles, Salem a sum equivalent to 3% of the rebate amount received by each of those societies from the Government and in pursuant to the demand, in the period from 02.06.2009 to 04.06.2009 demanded and obtained a sum of Rs.2,08,900 as illegal gratification from 14 handlooms Weavers Co-operative Societies, for having processed and got sanction of rebate claims, pertaining to the period, from the month of January 2008 to March 2008. Thus, you (AO-1 and AO-2) have committed official misconduct by abusing your official position.

Thereby you (AO-1 and AO-2) had failed to maintain absolute integrity and devotion to duty in Government service and acted in a manner unbecoming of a Government Servant and violated Rule 20(1) of Tamil Nadu Government Servants Conduct Rules, 1973.”

7.On perusal of the charge, there are abundant specificity and that the

charge memorandum against the petitioner and the charge specifically indicates



that between 02.06.2009 to 04.06.2009, the petitioner demanded an illegal gratification to the tune of Rs.2,08,900/- from 14 handloom weavers. As such, the contention of vagueness of the charge is nothing but self serving, and this Court do not find any traction in this argument. Coming into the perversity of the order, it is the main contention of the learned counsel for the petitioner that, in the impugned Appellate Authority order, there are no vestige to show the application of mind. In support of his contention, the learned counsel relied upon the following Judgments:

(1) Judgment in Case No. Appeal (Civil). 8267 of 2004 dated 05.04.2006 in the case of M.V.Bijlani v. Union of India and others

(2) Judgment in Civil Appeal No.7431 of 2008 dated 19.12.2008 in the case of Roop Singh Negi v. Punjab National Bank and others

(3) Order in W.P.No.15149 of 2018 dated 22.03.2021 in the case of P.Jayamoorthy v. The State of Tamil Nadu rep. by the Secretary to Government, Revenue and Disaster Management Department, Unit Works, Work -10(1) Section, Chenna and 2 others.

(4) Order in W.P.No.9591 of 2020 dated 13.04.2022 in the case of V.Bhuvaneshwaran v. The Government of Tamil Nadu rep. by its Additional Chief Secretary to Government, Municipal Administration and Water Supply Department, Chennai and another.

8.The ratio of the above Judgments is that if there is a non speaking



cryptic order, the same has to be set aside.

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9. On the wholesome reading of order of the Appellate Authority, we could see that the Appellate Authority has relied upon the charge memorandum, enquiry report, order of the Disciplinary Authority and further explanation given by the petitioner, and only after taking into consideration of all these aspects, eventually confirmed the order of the Disciplinary Authority. It is in this background, I am convinced that the order of the Appellate Authority is a speaking order.

10. It is well settled principles of law that, as already stated, unless there is a perversity in the order of the Authority, this Court cannot interfere with the decision of the Authorities. While looking at the order of the Disciplinary Authority, we could able to find that there are material witnesses, *qua* PW2, PW3, PW4 and PW5, and they have spoken about the receipt of illegal gratification. Therefore, the finding of the Disciplinary Authority is covertly and overtly based on the available material. As such, the contention put forth by the learned counsel for the petitioner that the impugned order is contrary to the available material, cannot be accepted at all. Accordingly, this Court could not find any merits in this Writ Petition.



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In the result, this Writ Petition stands dismissed. Consequently,

connected Miscellaneous Petitions are closed. No costs.

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Index :Yes/No
Speaking order :Yes/No
Neutral citation :Yes/No
mps

To

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Handlooms, Handicrafts, Textiles and Khadi Department,
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Chennai – 600 009.

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C. KUMARAPPAN, J.

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