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W.P.No.17150 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.17150 of 2020

and

W.M.P.No.21205 of 2020

L.Flora Glays

....Petitioner

Vs

1. The Chief Educational Officer,
Officer of the Chief Educational Officer,
Erode District.
2. The District Educational Officer,
Office of the District Educational Officer,
Gopichettypalayam,
Erode 638 456
3. The Superintendent of R.C.Schools,
The Coimbatore Diocese Society,
Post Box No.6,
Bishop's House,
Coimbatore 641 001
4. The Rev.Fr.Dr.A.Maria Joseph,
Principal & Correspondent,
St. Joseph's Matric Hr. Sec. School,
Ondipudur,
Coimbatore 641 016.
5. St. Mary's High School,
Rep. By its Correspondent and Head Master,
Kolappalur,
Gopichettypalayam Taluk,
Erode District – 638 456

....Respondents



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PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records from the 3rd respondent pertaining to impugned dismissal order of the petitioner vide Disp. 7/2020 dated 06.08.2020 quash the same and direct the respondents to reinstate the petitioner as Junior Assistant in the 5th Respondent's School.

For Petitioner	: Mr.B.Parthiban
For R1& R2	: M/s. E.Ranganayaki Additional Government Pleader
For R3 to R5	:Dr. Fr. A. Xavier Arulraj (Senior Counsel) for M/s. Father Xavier Associates

ORDER

The instant Writ Petition has been filed challenging the order of dismissal from service passed vide order dated 06.08.2020. The petitioner is a staff in School. The charge against the petitioner are manipulation of records, forgery and misappropriation.

2. The learned counsel for the petitioner submitted that, only upon the false promise to the petitioner for a lesser punishment, an admission letter was received, and that no due procedure was followed in the Enquiry Proceeding. Furthermore, the petitioner was not provided with an opportunity to cross examine the witnesses. Hence prayed to interfere with the order of punishment.



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3.1 The learned Senior Counsel appearing for the respondent would vehemently submit that the show cause notice was issued to the petitioner on 13.02.2020. After receiving the explanation, a domestic enquiry was ordered and an Enquiry Officer was appointed. In the enquiry, 17 witnesses were examined, and 7 documents were marked. Thus, after completion of enquiry, the Enquiry Officer has submitted the enquiry report on 06.07.2020 holding that all the nine charges have been proved against the petitioner.

3.2 Apart from that, the learned Senior Counsel would further states that, after passing the Enquiry Report, 2nd show cause notice was issued to the petitioner on 20.07.2020 and ultimately the impugned order was passed on 06.08.2020, and that he would submit that all due process were followed, and sufficient opportunities were provided to the petitioner. The petitioner herself had admitted her guilt. It is in this background, contended that, nothing to be interfered in the present Writ Petition and prays for dismissal of this petition.

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



5. As already stated, there are grave charges as against the petitioner for misappropriation, manipulation of records and forgery and the management has established those charges by examining 17 witness. It is pertinent to mention that all the witnesses have not been cross examined and it was also brought to the knowledge of this Court that, even the petitioner herself had admitted all the charges. However it is her contention that admission letter was obtained by misrepresenting the petitioner for lesser punishment. But such question of fact, cannot be gone before the Writ Court. Before we delve in the further discussion, this Court deem it appropriate to discuss certain precedents.

6. In ***B.C.Chaturvedi Vs. Union of India*** reported in (1995) 6 SCC 749, the Hon'ble Supreme Court has held as follows. The relevant paragraphs are paragraphs 12 & 18 and the same read as follows:-

“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 rules of natural justice are complied with. Whether the findings or conclusions are



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*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 reappreciate 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 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.***

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18. *A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with*



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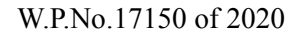
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*the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. **The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof.***

(Emphasis supplied by this Court)

7. In *Deputy General Manager (Appellate Authority) Vs. Ajai Kumar Srivastava* reported in (2021) 2 SCC 612, the Hon'ble Supreme Court held that if the decision is against the natural justice, then the same can be interfered. The relevant paragraphs are paragraphs 25 & 29 and the same read as follows:-

“25. It is thus settled that the power of judicial review, of the Constitutional Courts, is an evaluation of the decision-making process and not the merits of the decision itself. It is to ensure fairness in treatment and not to ensure fairness of conclusion. The Court/Tribunal may interfere in the proceedings held against the delinquent if it is, in any manner, inconsistent with the Rules of natural justice or in violation of the statutory Rules prescribing the mode of enquiry or where the conclusion or finding reached by the disciplinary authority if based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached



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8. Through the above judgments, the following principles are emerging:-

(i) Power of Judicial review is not like an appeal. But such power is meant to ensure that the individual receives fair treatment and to ensure the compliance of natural justice.

(ii) The power of judicial review is not like a appellate remedy to substitute its own finding, unless the findings of the Disciplinary Authority and Appellate Authority is perverse and without evidence.

(iii) The High Court had no jurisdiction to review the



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penalty, unless it is shockingly disproportionate.

(iv) Since because there is a possibility to arrive at yet another finding, cannot be a reason to substitute the finding of the disciplinary Authority.

(v) The judicial review is meant only to ensure fairness in treatment and not to ensure fairness of conclusion.

(vi) While exercising the power of judicial review, so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained.

9. It is the settled principle of law that while exercising the power of judicial review, this Court could not re-appreciate the evidence, and this Court has only a limited duty to find out if there is any material available as against the petitioner. However, while looking at the enquiry report and the reply given by the petitioner, more specifically the admission letter given to the petitioner, there are abundant material against the petitioner. Therefore, this Court could not find any grounds to interfere in the order of dismissal. Thus, this Court finds no merits in this petition.



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

connected miscellaneous petition is closed. No costs.

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Index : Yes/No
Neutral Citation : Yes
Speaking order : Yes
Sma

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C.KUMARAPPAN, J

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