IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **19.10.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.16388 of 2020

P.Venkatesan ....Petitioner

Vs

1. The Government of Tamilnadu
rep by the Additional Chief
Secretary to the Government,
Finance (Treasuries & Accounts) Department,
Secretariat,
Chennai – 600 009

2. Principal Secretarty to Government/
The Commissioner of
Treasuries and Accounts,
Nandanam,
Chennai – 600 032.

....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records of the respondents relating to the entire disciplinary proceeding culminated in the Government order in G.O (2D) No.43, Finance Department dated 20.08.2018 issued by the 1st respondent confirmed in G.O(2D) No.51 Finance Department dated 01.10.2019 issued by the 2nd respondent and quash both the orders and consequently to direct the respondents to sanction all the consequential and attendant benefits of promotion and monetary benefits to the petitioner.

For Petitioner : Mr.P.Anbarasan
For R1& R2 : Mr.A.M.Ayyadurai
Government Advocate

ORDER

The instant Writ Petition has been filed challenging the order passed in suo moto review dated 20.08.2018

2.1 The learned counsel for the petitioner submitted that, though there were some excess pay while settling pension dues to some of the pensioners, after came to know about the excess pay, same were recovered from the concerned pensioners, and deposited before Treasuries, thus there is no loss to the Government. Further, the Disciplinary Authority having considered the lack of staff strength and severe illness of one of the accountant, though charges have been proved, instead of imposing any punishment provided under Tamil Nadu (Discipline and Appeal) Rules, (hereinafter called as "rules"), a warning was administered to the petitioner. However, the reviewing authority without taking into consideration of the insufficiency of the staff members and the serious ailment of one of the accountant, has modified the punishment, on the sole ground that there is no punishment called "Warning" under the Rules.

2.2 The learned counsel for the petitioner further contended that the disciplinary proceedings has to be initiated only to correct the administration and not to punish the erring officials and in the case in hand, there was no misconduct on the part of petitioner, and at the best it could only be the inadvertent mistake. Hence, he prayed for interference of this Court.

3. The learned Government Advocate would strongly object the contention of the learned counsel for the petitioner, and would urge before this Court that, unless the punishment is shockingly disproportionate, under the Writ Jurisdiction, this Court cannot go into the proportionality of the punishment, and while looking at the order of the Reviewing Authority, the Reviewing Authority has given proper explanation as to why review was made. Therefore, there is no merits in this petition and sought for dismissal of this petition.

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

5. The main contention put forth by the learned counsel for the petitioner is that, though certain excess payment was made, subsequently the same was recovered, and deposited before the Treasury. Accordingly, there is no loss to the Government. Furthermore, the another contention is that, there were lack of staff strength at the relevant point of time. Though the submission of the learned counsel for the petitioner appears to be in order, while looking at the punishment imposed by the Disciplinary Authority, punishment was only "Warning".

6. However the Reviewing Authority has modified the punishment on the ground that there is no such punishment of "Warning" in the Discipline and Appeal Rules. Besides, the Reviewing Authority has also relieved the policy decision taken by the Government to seriously view the act of permitting the excess pay beyond entitlement by the treasury Officials, as in many cases, these Courts ordering to set aside the Recovery. In such view of the matter, the reason assigned by the Reviewing Authority is in order, and furthermore, the Reviewing Authority has also considered the then prevailing situation of the lack of staff members, and has only awarded flea bite punishment of "censure". According to me, the same is not shocking the conscience. Therefore, this

Court could not find any merits in this Writ Petition.

6. In the result, the Writ Petition stands dismissed. No costs.

19.10.2024

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

To
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C.KUMARAPPAN, J

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