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WP No.17393 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11-03-2024

PRONOUNCED ON: 26-03-2024

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

And

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P. No. 17393 of 2020

P. Panner Selvam

... Petitioner

-VS-

1. The Register General,
High Court, Madras
Chennai 600 104.

2. The Principal District Judge,
Krishnagiri.

3. The Subordinate Judge
Uthangarai.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, or any other appropriate writ on direction to call for the records on the file of 1st Respondent proceeding in R.O.C. No.98909/2017/C1, dated 27.08.2019 and quash the same illegal, incompetent and without jurisdiction and further



direct the respondents to take appropriate steps to ensure payment of service benefits to the petitioner.

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For Petitioner : Mr. V. Raghavachari, Senior Counsel
(For Mrs. V. Srimathi)

For Respondents 1 to 3 : Mr. B. Vijay

ORDER

[ORDER OF THE COURT WAS MADE

BY K. RAJASEKAR, J.]

The relief sought for in the present writ petition is to set aside the Order of dismissal passed in R.O.C. No.98909/2017/C1, dated 27.08.2019 and quash the same and to further direct the respondents to release payment of service benefits to the petitioner.

2. The brief facts leading to filing of this writ petition is as follows:

3. The petitioner while serving as a Senior Bailiff, served with a charge memo dated 27.10.2015, which contains the following charges.

**“Charge – I**

Thiru. P. Panneer, Senior Bailiff, Sub Court, Uthangarai have made corruption by receiving money of Rs.54,000/- on 05.06.2012, Rs.2,00,000/- on 03.09.2012 and Rs.1,00,000/- on 10.02.2014 from one Tmt. S. Kuppammal, W/o Tamilalagan, Dharmapuri for making employment as Examiner in the Krishnagiri Judicial Department thereby he have not followed integrity and devotion in duty, thereby committed misconduct and violating the Rule 20 of Tamil Nadu Government Servant's Conduct Rules, 1973.

Charge – II

Thiru. P. Panneer, Senior Bailiff, Sub Court, Uthangarai have made corruption by receiving money of Rs.68,500/- on 05.08.2011 from one Thiru.G. Mani for making employment to his daughter viz., Sabitha in the Krishnagiri Judicial Department as Xerox Operator and also received Rs.68,500/- each from several others by giving assurance to make employment as Xerox Operator in Krishnagiri Judicial Department thereby he have not followed integrity and devotion in duty, thereby committed misconduct and violating the Rule 20 of Tamil Nadu Government Servant's Conduct Rules, 1973.

Charge – III

Thiru. P. Panneer, Senior Bailiff, Sub Court, Uthangarai have made corruption by receiving money of Rs.3,00,000/- on 23.10.2013 from one Thiru.M.Jaganathan through Advocate Mr. Tamilalagan, Dharmapuri, and on 05.11.2013 received again Rs.50,000/- directly from the said Thiru.M.Jaganathan for making employment to his daughter viz., Tmt.Prabavathy in the Krishnagiri Judicial Department as Computer Operator thereby he have not followed integrity



and devotion in duty, thereby committed misconduct and violating the Rule 20 of Tamil Nadu Government Servant's Conduct Rules, 1973.

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Charge – IV

Thiru. P. Panneer, Senior Bailiff, Sub Court, Uthangarai have borrowed a sum of Rs.20,00,000/- from one Thiru.Gokulesh, S/o Ganesan by violating the Rule 6 of Tamil Nadu Government Servant's Conduct Rules, 1973.

Charge – V

Thiru. P. Panneer, Senior Bailiff, Sub Court, Uthangarai have misusing the Official capacity and misusing the name of Thiru.C.Chinnappan, then Disciplinary Authority / Principal District Judge, Krishnagiri and cheating one Kuppammal, W/o. Tamilalagan by giving assurance for employment in Krishnagiri Judicial Department thereby committed misconduct and violating the Rule 20 of Tamil Nadu Government Servant's Conduct Rules, 1973.”

4. The writ petitioner submitted his written statement on 18.11.2015 denying the charges. Thereafter the Disciplinary Authority / Principal District Judge, Krishnagiri appointed an Enquiry Officer to enquire into the charges levelled against the petitioner herein. Before the Enquiry Officer, C.W.1 to C.W.8 were examined and Exs. C.1 to C.10 were marked on the side of the Department and on the side of the delinquent no



witnesses or exhibits were produced, even though, in the written statement, he has relied on certain documents. After due enquiry, the Enquiry Officer has submitted his report dated 08.03.2016, stating that all the charges framed against the petitioner herein are proved. The Disciplinary Authority has issued a second show cause notice calling for the explanation of the petitioner, and after considering the explanation, the Order of dismissal from service was passed by the Disciplinary Authority on 24.05.2017.

5. Aggrieved over the dismissal from service, the petitioner has approached the Appellate Authority under the Discipline and Appeal Rules and after considering the case on merits and after appreciating the evidence, the Appellate Authority has rejected the appeal and confirmed the Order passed by the Disciplinary Authority. Thereafter, the petitioner approached this Court by way of filing writ by invoking Article 226 of the Constitution of India, to quash the Order of dismissal from service and to take appropriate steps to ensure payment of service benefits to the petitioner.

6. Mr. V. Raghavachari, learned Senior Counsel representing the petitioner submitted that a false complaint was registered against the Senior



Bailiff on the behest of a practicing Advocate namely Mr. Tamilalagan, by Mrs. Kuppammal. The petitioner herein has received a sum of Rs.4,00,000/- from two persons namely Chandran and Annadurai, after executing of the two unfilled cheques as security. These cheques have been misused by one of the complainant Gokulesh and allegations have been leveled, as if, the petitioner has received Rs.20,00,000/- loan from him. The learned Senior Counsel also impressed upon this Court that the Senior Bailiff/ petitioner has no capacity to receive Rs.20,00,000/- as a loan and non repayment of this loan amount is considered as one of the misconduct. The petitioner herein has been falsely implicated for the purpose of recovery of false claim and this aspect has not been properly appreciated by the Enquiry Officer in his finding. He further submitted that the petitioner herein has substantiated his case that, he has been falsely implicated in this case by an Advocate and also submitted that the punishment imposed on the petitioner is also disproportionate and prays to set aside the impugned Orders.

7. Per contra, the learned counsel for the respondents submitted that the petitioner has involved in serious misconduct. The procedures as



contemplated were scrupulously followed. The petitioner participated in the process adopted for concluding departmental Disciplinary proceedings. It is also true that one of the complainant is wife of an Advocate and another complainant is an individual, who has given the loan to the extent of Rs.20,00,000/- to the petitioner herein and subsequently, the cheque was issued by the petitioner for repayment and the same was dishonored. Apart from these two complainants, three other complainants are the individuals, who have been cheated by the petitioner by promising them to secure job in the Judicial Department, hence the grounds raised by the petitioner regarding the credibility of statement of witnesses deserves no merit consideration. Since the Enquiry Officer, Disciplinary Authority and Appellate Authority have independently considered the merits and the documents available on record, further consideration of facts may not be required in the present writ petition.

8. We have considered the submissions made by both sides and the materials available on record.

9. The scope of judicial review is well settled and recently the



three Judges Bench of Apex Court in *Pravin Kumar vs. Union of India and others* [2020 (4) LLN 55 (SC) : (2020) 9 SCC 471] has reiterated the following principles:

“25.The power of judicial review discharged by Constitutional Courts Under Article 226 or 32, or when sitting in appeal Under Article 136, is distinct from the appellate power exercised by a departmental appellate authority. It would be gainsaid that judicial review is an evaluation of the decision-making process, and not the merits of the decision itself. Judicial Review seeks to ensure fairness in treatment and not fairness of conclusion. It ought to be used to correct manifest errors of law or procedure, which might result in significant injustice; or in case of bias or gross unreasonableness of outcome.

26. These principles are succinctly elucidated by a three-judge Bench of this Court in B.C. Chaturvedi v. Union of India MANU/SC/0118/1996 : (1995) 6 SCC 749 p. 12 in the following extract:

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 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.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has coextensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry, the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In Union of India v. H.C. Goel MANU/SC/0271/1963 : [(1964) 4 SCR 718 : AIR 1964 SC 364 : (1964) 1 LLJ 38] this Court held at p.728 that if the conclusion, upon consideration of the evidence reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued.



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27. *These parameters have been consistently reiterated by this Court in a catena of decisions, including:*

(i) *State of Tamil Nadu v. S. Subramaniam, MANU/SC/0327/1996 : (1996) 7 SCC 509.*

(ii) *Lalit Popli v. Canara Bank, MANU/SC/0144/2003 : (2003) 3 SCC 583.*

(iii) *Himachal Pradesh State Electricity Board Ltd. v. Mahesh Dahiya, MANU/SC/1499/2016 : (2017) 1 SCC 768.*

28. It is thus well settled that the Constitutional Courts while exercising their powers of judicial review would not assume the role of an appellate authority. Their jurisdiction is circumscribed by limits of correcting errors of law, procedural errors leading to manifest injustice or violation of principles of natural justice. Put differently, judicial review is not analogous to venturing into the merits of a case like an Appellate Authority.”

10. The main contention of the Senior Counsel Mr. V.Raghavachari is that, the complaints have been lodged by one Gokulesh as if, a loan of Rs.20,00,000/- have been received by the petitioner and subsequently, for repayment of the same, cheque was issued and the same is dishonored. The cheques executed by the Petitioner as security for Rs.4,00,000/- for the loan borrowed by the petitioner herein is misused by Gokulesh. Other complaints lodged based on the inducement made by a



practicing Advocate.

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11. In the enquiry proceedings, to prove charge no.1, C.W.5– Kuppammal, who was the first complainant was examined and she has categorically stated in her evidence that she is the wife of Tamilalagan, who is a practicing Advocate at Dharmapuri. The petitioner has promised her to arrange a job at the District Court, Krishnagiri in the post of “Examiner”. She has also stated that the petitioner herein informed them that he was looking after the agricultural lands of the then District Judge of Krishnagiri and through him, he could arrange job for her. Accordingly, based on inducement she has paid Rs.50,000/- for the first time, subsequently, paid Rs.2,00,000/- by pledging her jewels on 03.09.2012. To support her evidence, Ex.C.8 series - original receipts of Gold loans were marked.

12. To prove the charge no.2, C.W.7 – Mani was examined and according to him, the petitioner herein has received Rs.68,500/- for securing an employment, in the District Court, Krishnagiri. He further stated that along with his daughter twelve other members were sent for Xerox Machine training, at Thiagaraja Polytechnic College, Salem by paying Rs.68,500/-



per person, totaling Rs.7,45,500/- was paid to the delinquent. One Kuppusamy was examined as C.W.8 to support the evidence of Mani and to prove the fact that Rs.7,45,500/- was paid.

13. To prove the charge no.3, the complainant namely Jaganathan was examined as C.W.3 and Ex.C.7 – copy of the bank transactions was marked and according to him, he paid Rs.3,50,000/- under various dates. The husband of Kuppammal was also examined as C.W.4 and he has corroborated the evidence of C.W.3 – Jaganathan. Similarly, for the charge no.4, complainant Gokulesh was examined and it was suggested to him that two cheques were issued to him as a security for the repayment of loan of Rs.4,00,000/-, but the cheques were misused. The charge no.5 is also relating to the cheating of the Kuppammal by the petitioner.

14. All these witnesses were cross-examined by the petitioner herein and he has not come forward to produce any contra evidence. The petitioner relied on the cross examination, which contains only suggestions denying the charge or accusations leveled against him. The evidence adduced before the Enquiry Officer was considered and after accepting the



evidence adduced and finding of the Enquiry Officer, the Disciplinary Authority has held that the charges framed against the petitioner is proved and the major punishment of dismissal from service would be appropriate.

15. The Order of Disciplinary Authority is not based on no evidence, there are more than sufficient evidence placed on record before the Enquiry Officer, which proves the charges leveled against the petitioner herein. Even though, the preponderance of probability is sufficient to prove the allegations of misconduct in the Departmental proceedings, the evidence placed on record have been appreciated by Authorities and there are overwhelming evidence available on record and the same has been re-appreciated by the Appellate Authority. Satisfied with the evidence placed before the Enquiry Officer, both the Disciplinary Authority and Appellate Authority has held that the petitioner is guilty of all the charges framed against him.

16. Since the Disciplinary Authority is the sole Judge of the facts and the Appellate Authority has also re-appreciated the evidence, this Court need not substitute its opinion that of Authorities. Unless, the conclusion



reached suffers from patent error on the face of record or is perverse, no writ of certiorari could be issued.

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17. The report of the Enquiry Officer and the proceedings of the Disciplinary Authority shows that, the delinquent has been given sufficient opportunity to defend his case in the enquiry proceedings. Subsequent to the second show cause notice, the Order of dismissal has been passed. Subsequently, the Delinquent approached the Appellate Authority and after due consideration of the appeal, Appellate Authority dismissed the appeal.

18. The petitioner has not raised any ground of violation of principal natural justice or any violation of rules. The charge memo is served on the delinquent and he has rightly understood the charge and submitted his written submission. He has disputed the allegation of misconduct and has not adduced his side evidence in the enquiry. From the stage of charge memo till the submission of enquiry report by Enquiry Officer, he has been given fair treatment. The Disciplinary Authority has served second show cause notice and after receiving representation from delinquent, final order of dismissal has been passed. These facts shows that,



the Disciplinary Authority has ensured the fairness in treatment. The Delinquent has availed all the legal remedies available under the Discipline and Appeal Rules. We are of the view that, there is no procedural error in the Orders passed against the Delinquent.

19. With regard to quantum of punishment, we don't find any disproportionality, since the proven misconduct against the petitioner herein is receiving huge amount by making false promise of getting job in the Judicial Department and also involved in receiving huge amount of loan to the extent of Rs.20,00,000/-. Accordingly, this Court finds no merit in the writ petition.

20. In the result, the present writ petition stands dismissed. However, there shall be no order as to costs.

(S.M.SUBRAMANIAM,J.) (K.RAJASEKAR,J.)

26-03-2024

Index : Yes/No



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Internet: Yes/No
Speaking order/Non-Speaking order
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S.M.SUBRAMANIAM, J.
AND
K.RAJASEKAR, J.

stn

To

1. The Register General,
High Court, Madras
Chennai 600 104.
2. The Principal District Judge,
Krishnagiri.

Pre-delivery Judgment made in
W.P. No. 17393 of 2020

26-03-2024