IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.No.831 of 2021

Krishnavalli ... Appellant

Vs.

1.The Managing Director,
Tamil Nadu Industrial Investment Corporation Ltd.,
No.692, Anna Salai, Nandanam,
Chennai – 35.

2.The Board of Directors,
Represented by the Chairperson,
Tamil Nadu Industrial Investment Corporation Ltd.,
No.692, Anna Salai, Nandanam,
Chennai – 35. ... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order of the Learned Judge dated 04.03.2020 passed in W.P.No.19662 of 2006 and thereby allow the writ petition filed by the appellant.

For Appellant : Mr.L.Chandra Kumar
For Mr.K.Sasindran

For Respondents : Mr.K.Magesh

J U D G M E N T

[Judgment was delivered by **S.M.SUBRAMANIAM, J.**]

The writ petitioner is the appellant before us. The appellant was holding the post of Senior Assistant in Tamil Nadu Industrial Investment Corporation Limited, which is a Government of Tamil Nadu Undertaking. On 02.12.2002 two sets of charge memorandums were issued to the appellant and the charges are as under;

> "*Charge 1: That she had drawn the advance amount of Rs.6000/- on 15.05.98 for purchase of computer stationery and did not utilise the same for the purpose for which it was obtained and thereby temporarily misappropriated the funds of the Corporation and also failed to maintain absolute integrity and devotion to duty and thereby violated Rules 6.14(vii), 6.14(viii), 6.14(xii) and 6.1(a), 6.1(b) read with 6.14(xiii) of the Service Rules of the Corporation.*
>
> *Charge 2: That she failed to obtain stamped*

receipt for Rs.5,000/- from the supplier, M/s. Ahana Computers and made the payment in cash to the supplier against norms and thereby violated Rules 6.14(vii), 6.14(viii), 6.14(xii) and 6.1(a), 6.1(b) read with 6.14(xiii) of the Service Rules of the Corporation.

Charge 3: That her conduct as above is unbecominig of an employee of a Financial Corporation and thereby violated Rule 6.1(c) read with 6.14(xiii) of the Service Rules of the Corporation."

2. On the very same date, another charge memo was issued by the first respondent for the charges as under;

"Charge 1: That she manipulated the attendance register and signed in the place for 2/9/98, 3/9/98, 4/9/98, 7/9/98 and 8/9/98 as if she had attended the office in time on those days and thereby violated Rule 6.14(vii), 6.14(viii), 6.14(xii) and 6.1(a) read with 6.14(xiii) of the Service Rules of the Corporation.

Charge 2: That she manipulated the attendance register and signed the attendance register as if she attended the office on 5/6/98, 6/7/98, 9/7/98, 9/9/98 and 15/9/98 when she had *not attended the office on those days and thereby violated Rules 6.14(vii), 6.15(viii), 6.14(xii) and 6.1(a), 6.1(b) read with 6.14 (xiii) of the service Rules of the Corporation.*

Charge 3: That she intentionally and with ulterior motive committed the above irregularities and her conduct is unbecoming of an employee of a financial institution and thereby, violated Rules 6.4(c) read with 6.14(xiii) of the Service Rules of the Corporation."

3. The appellant submitted explanations denying the charges. Not satisfied with the statement of defence, an Enquiry Officer was appointed. Domestic enquiry was conducted and the delinquent Officer participated in the process of enquiry and defended her case. Though certain charges held as not proved by the Enquiry Officer in his report, the Disciplinary Authority deviated the findings and issued show cause notice assigning reasons. In other words with reference to the deviated findings, the Disciplinary Authority afforded an opportunity to the delinquent Officer to submit further explanation on the findings, which all are deviated. Further representations were received by the Disciplinary Authority and final order passed imposing

the punishment of compulsory retirement. The Writ Court considered the issues and dismissed the writ petition by confirming the punishment. Thus, the present writ appeal came to be preferred.

4. Mr.L.Chandra Kumar, learned counsel appearing on behalf of the appellant would mainly submit that the Enquiry Officer after deliberations held that the charges are not proved. While so, there is no reason to deviate the findings of the Enquiry Officer. There is no additional materials available on record to form an opinion to deviate the findings of the Enquiry Officer. The Disciplinary Authority has arrived a provisional conclusion in advance, which would reveal that the authority has predetermined the issues. Thus, the writ order is perverse and to be set aside.

5. The second ground raised by Mr.L.Chandra Kumar would be that the punishment of compulsory retirement is not in proportionate with the gravity of charges proved. The charges are trivial in nature and the Disciplinary Authority ought to have considered by imposing lesser punishment. Thus, this Court has to interfere with the quantum of punishment of compulsory retirement imposed on the appellant.

6. Mr.K.Magesh, learned counsel for the respondents would oppose by stating that enquiry was conducted by following the procedures and by affording opportunity to the delinquent Officer. The charges against the appellant was temporary misappropriation of the funds of the corporation. The appellant was entrusted with the responsibility of cash dealings in the corporation and therefore, the charges are serious in nature. Other charges relating to tampering of attendance register. The delinquent Officer was a habitual late comer and used to tamper the attendance register. It is serious misconduct and actions are initiated. The contention of the appellant that the Branch Manager granted permission was not established before the Enquiry Officer nor the Branch Manager was examined as witness by the delinquent Officer. That being so, the Writ Court is right in confirming the penalty of compulsory retirement and the writ appeal is to be rejected.

7. Heard the parties.

8. Scope of interference in disciplinary matters in writ appeal is undoubtedly limited. The Writ Court elaborately considered the nature of the

charges, findings of the Enquiry Officer, decision taken by the Disciplinary Authority to deviate the findings of the Enquiry Officer, show cause notice seeking further explanation and the quantum of punishment imposed. When all these issues were considered by the Writ Court, only the correctness alone needs to be tested by the Writ Appellate Court.

9. The Rules of nature justice has been complied with. Delinquent Officer participated in the process of enquiry and defended her case. Rules governing the disciplinary matters are followed. Though the Enquiry Officer found that the charges are not proved, the Disciplinary Authority deviated the findings of the Enquiry Officer by assigning reasons. Reasons are communicated to the delinquent Officer by affording opportunity to submit further representation and on receipt of further representation final order in the disciplinary proceedings was issued. Thus, we do not find any infirmity in respect of procedures followed by the respondents in conducting the disciplinary proceedings.

10. The charges cannot be termed as trivial in nature. The first charge would reveal that it relates to temporary misappropriation of the funds of the

corporation. The respondent / corporation is a financial institution. The delinquent Officer was entrusted with the responsibility of handling cash. Therefore, such temporary misappropriations cannot be viewed leniently. Other set of charges are relating to tampering of attendance register. It is found that on several occasions, the delinquent Officer tampered the attendance register and the authorities found that she is a habitual late attendee of the Office. That being so, we do not find that the charges are minor in nature.

11. With reference to the charges and the report of the Enquiry Officer and deviation report of the Disciplinary Authority, the punishment of compulsory retirement cannot be said to be disproportionate. The authorities have chosen not to inflict the penalty of dismissal from service. They have imposed the penalty of compulsory retirement taking into consideration the nature of charges, which all are held proved. The quantum of punishment is not shocking to the conscious of this Court, since the allegations proved are serious in nature. Thus, we are not inclined to interfere with the quantum of punishment. Rules governing the disciplinary matters were followed by the Disciplinary Authority and the Writ Court has considered this aspect in a

right perspective, which deserve no further interference.

12. Accordingly, the Writ Appeal stands dismissed. No costs.

[S.M.S., J.] **[C.K., J.]**
18.07.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

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