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W.P.No.28114 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.No.28114 of 2022

S.Ramanathan

... Petitioner

Vs.

1. The Registrar (General),
High Court, Madras.

2. The Principal District Judge,
Kancheepuram District at Chengalpet.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for records relating to the order of the 2nd respondent made in A.No. 130/2015 D No.1307/A/2018 dated 05.03.2018 as confirmed by the first respondent in Order No.R.O.C. No. 88348/2018/C1 dated 08.09.2022 to quash the same and to consequently direct the respondents to extend all service benefits including promotion on par par with the junior and other benefits arising thereto.

For Petitioner : Mr.L.Chandra Kumar

For Respondents : Mr.B.Vijay (for R1 & R2)



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ORDER

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(Order of the Court was delivered by S.M.Subramaniam J.)

The punishment of stoppage of increment for three years with cumulative effect, imposed by the disciplinary authority, i.e., Principle District Judge, as confirmed by the appellate authority, Registrar General, are sought to be quashed in the present writ proceedings.

2. The petitioner was appointed as Examiner of Copies on 29.03.1995, on compassionate ground, due to the death of his father during the year 1985. He was subsequently promoted to the post of Typist, Assistant, and thereafter posted as Grade-III Bench Clerk and Grade-II Bench clerk and finally he served as Bench Clerk CJM Court. Charge memorandum was issued against the writ petitioner under Rule 17(b) of the Tamil Nadu Civil Services Discipline and Appeal Rules. Three charges are framed against the writ petitioner, they are as follows:

“

CHARGE-I:

That, you while functioning as Head Clerk in Judicial Magistrate Court No.1, Chengalpattu were in charge of the Non-valuable case properties of Judicial Magistrate Court No.1, Chengalpattu and responsible for



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preparation of list of such non-valuable case properties (relating to disposed cases) pending disposal in the court of Judicial Magistrate No.1, Chengalpattu and entrusting the properties which were ordered to be confiscated to Government, to the Revenue Authorities by preparing a list of such confiscated properties; that you prepared a list of Non-valuable case properties (i.e) Sl.No.1 to 628, (4043 bottles and 182 cans) on 14.03.2015 and deliberately with dishonest motive, failed to obtain the signature of the Judicial Magistrate No.1, Chengalpattu in the said list of confiscated properties which was prepared on 14.03.2015 and handed over to the Revenue Authority viz., the Tahsildar, Chengalpattu; thereby you have committed the acts of serious misconduct, dereliction of duty, exhibiting a conduct unbecoming of a Government Servant and thereby violated Rule 20(1) of Tamil Nadu Government Servants' Conduct Rules, 1973 and rendered yourself liable to be punished under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules.

CHARGE-II:

That, you while functioning as Head Clerk in Judicial Magistrate Court No.I, Chengalpattu, were in charge of the Non-valuable case properties of Judicial Magistrate Court No.I, Chengalpattu and responsible for preparation of list of such non-valuable case properties



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(relating to disposal cases) pending disposal in the court of Judicial Magistrate No.I, Chengalpattu and entrusting the properties which were ordered to be confiscated to Government, to the Revenue Authorities by preparing a list of such confiscated properties; that you prepared a list of Non-valuable case properties (i.e) Sl.No.1 to 628, (4043 bottles and 182 cans) on 14.03.2015 and deliberately, with dishonest motive, you put the signature of the present Judicial Magistrate No.I, Chengalpattu viz. Tmt.S.K.Angala Eswari, in the list of confiscated properties dated 14.03.2015 and handed over to the Revenue Authority viz.. the Tahsildar, Chengalpattu viz, Tmt.S.K.Angala Eswari, and thereby you forged the signature of the present Judicial Magistrate No.1, Chengalpattu viz. Tmt.S.K.Angala Eswari, and thereby you have committed the acts of serious misconduct, misuse of official power, failure to maintain absolute integrity, exhibiting & conduct unbecoming of a Government Servant and thereby violated Rule 20(1) of Tamil Nadu Government Servants Conduct Rules 1973 and rendered yourself liable to be punished under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules.

CHARGE-III:

That, you while functioning as Head Clerk in Judicial Magistrate Court No.1, Chengalpattu, were in charge of accounts branch attached to the Head Clerk of



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Judicial Magistrate Court No.1, Chengalpattu and responsible for proper maintenance of registers and records relating to that Branch including the Register of Properties; that you deliberately with dishonest motive, not obtained the signature of the present Judicial Magistrate No.1, Chengalpattu Viz, Tmt.S.K.Angala Eswari, in the certificate appended in the first page of the original Property Register commencing from Pl No.725/2013 and put the signature of Tmt.S.K.Angala Eswari, the Judicial Magistrate No.I, Chengalpattu and forged the signature of Tmt.S.K.Angala Eswari, Judicial Magistrate No.I, Chengalpattu and thereby you have committed the acts of serious misconduct, dereliction of duty, misuse of official power, failure to maintain absolute integrity, exhibiting a conduct unbecoming of a Government Servant, and thereby rendered yourself liable to be punished under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules.”

3. The petitioner submitted his explanations. Not satisfied with the explanation, the disciplinary authority appointed an Inquiry Officer who in turn conducted an inquiry and submitted his final inquiry report holding that all the three charges are not proved against the writ petitioner. On receipt of the inquiry report, the disciplinary authority found that the findings are perverse and had taken a decision to disagree with the



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findings of the inquiry officer. Accordingly, further show cause notice, as contemplated are issued by the disciplinary authority to the delinquent officer in proceeding dated 17.05.2017.

4. The disagreement was based on the ground that the opinion of the handwriting expert, in his report Document No.224/2016, dated 01.11.2016, says "The person who wrote the red enclosed signature stamped and marked A1 to A10 did not write the red enclosed signatures similarly stamped and marked Q1 and Q2" and Inquiry Officer has also stated that as per the opinion of the expert, the disputed signature was not that of the Judicial Officer.

5. On further perusal of the inquiry file, Thiru S.Ramanathan (writ petitioner), then Head Clerk of Judicial Magistrate Court No.I, Chengalpattu was the custodian of the records containing the disputed signature during his period.

6. An opportunity was provided to the delinquent officer, and he submitted his objections on the point of disagreement raised by the disciplinary authority against the findings of the Inquiry Officer. The petitioner submitted his objections on 06.06.2017. Perusal of the



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explanations reveal that the petitioner has understood the point of deviation raised by the disciplinary authority and submitted his reply. The materials available on record were considered by the disciplinary authority, who in turn passed final order in the departmental disciplinary proceedings on 05.03.2018, imposing the penalty of withholding of three increments with cumulative effect. The petitioner preferred an appeal which was rejected by the appellate authority. Thus, the present writ petition came to be instituted.

7. The learned counsel for the petitioner, Mr.L.Chandra Kumar would mainly contend that the point of disagreement raised by the disciplinary authority is perverse and not form part of charges made by it. Therefore, the disagreement note itself is untenable and consequently, the punishment imposed is to be set aside. Further he relied on the counter affidavit filed by the Principle District Judge, Chengalpattu that there is a mentioning about the adherence of rules by the writ petitioner. The procedures as contemplated were not followed and therefore, the writ petition is to be allowed.

8. Mr.B.Vijay, learned counsel for the respondents would oppose by



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stating that the procedures as contemplated were scrupulously followed while conducting the departmental disciplinary proceedings. Petitioner was afforded with opportunity and he defended his case. The disciplinary authority is empowered to disagree with the findings of the Inquiry Officer and he had rightly done so in respect of the charges made against the writ petitioner. Thus, there is no infirmity and the writ petition is to be rejected.

9. Considering the rival submissions as advanced between the parties to the *lis* on hand, the charges framed are serious in nature. The allegation was that the petitioner forged the signature of the Judicial Officer. The Inquiry Officer conducted an inquiry and made a finding that the charges are not proved. However, the disciplinary authority considered the findings of the Inquiry Officer and disagreed with him on the ground that as per the opinion of the expert, the disputed signature was not that of the Judicial Officer. When the Inquiry Officer himself has recorded that the signatures of the Judicial Officer is not tallying and somebody has put the signature of the Judicial Officer and the custody of the delinquent officer issued further show cause notice seeking explanation from the petitioner regarding his disagreement with the findings. The procedures followed are in consonance with the discipline and appeal rules.



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10. The petitioner submitted his further explanation stating that the comparison was not made property and therefore, point of disagreement is untenable. The disciplinary authority again considered the explanation and arrived at a conclusion that the Magistrate is supposed to sign bills, bail bonds, bail order and other important documents dealing with the accused, if the signature of the officer is allowed to be made by some other person, it may have serious implications on the administration of justice. Therefore, the disciplinary authority has declined to take a lenient view on the delinquent for forging the signature of the Officer.

11. He was not inclined to take a lenient view on the delinquent officer for forging the signature of the Judicial Officer. Though, such an observation was made by the disciplinary authority, he has imposed the punishment of withholding of three increments with cumulative effect. Perusal of the order passed by the disciplinary authority would reveal that he was not inclined to take a lenient view and imposed the punishment of withholding of three increments with cumulative effect. Therefore, we are of the considered opinion that though the disciplinary authority has stated



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that he is not inclined to take a lenient view, while imposing punishment, he was considerative and imposed the penalty of withholding of three increments with cumulative effect.

12. The appellate authority also considered the facts and the procedures followed in the departmental disciplinary proceedings independently. The appellate authority Registrar General considering the nature of charges and the disagreement points and thereafter made a finding as follows:

“Perusal of the above findings, the Appellate Authority is of the considered opinion that it is well reasoned and based on the facts and circumstances and the materials available on record, it was established that the disputed file was with the custody of the appellant and during such time, the signature of the Judicial Magistrate No.I, Chengalpattu was forged by some unknown persons and under these circumstances, the Disciplinary Authority arrived a conclusion to the extent that the appellant is held responsible and accountable and issued the show cause notice providing further opportunity to the charged official to submit his explanations on the dissenting view taken by the Disciplinary Authority.”



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13. In the present case, the Rules of Nature Justice have been complied with. The Inquiry Officer though held that the charges are not proved, the disciplinary authority disagreed with the findings of the Inquiry Officer and issued a show cause notice furnishing reasons for disagreement and sought for further explanation from the delinquent officer. Therefore, we do not find any infirmity in respect of the procedures followed. The disciplinary authority is empowered to disagree with the findings of the Inquiry Officer and in the present case, the authority had rightly done so.

14. The findings of misconduct, on the disagreement point is based on some evidence. The point of disagreement was made mainly based on the report of the Handwriting Expert. When the report of the Handwriting Expert, in unambiguous terms, states that the disputed signature was not that of the Judicial Officer, it would be sufficient to impose penalty on the delinquent officer since he was the in-charge of the section and file. The departmental disciplinary proceedings and punishments are imposed based on the principles of preponderance of probabilities. Further, the statutory



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rules governing the conduct of the disciplinary inquiry have been observed in the present case. Thus, the order of the disciplinary authority and the appellate order did not suffer from perversity.

15. Finally regarding the proportionality of the punishment, though the disciplinary authority formed an opinion that no lenient view can be taken with reference to the nature of charges, the authority has imposed penalty of withholding three increments with cumulative effect and therefore, we do not find any disproportionality in punishment. Thus, the petitioner has not established any acceptable reason for interference.

16. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

(S.M.S.J.,)

(K.R.S.J.,)

19.03.2024

Index : Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

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To

1. The Registrar (General),
High Court, Madras.
2. The Principal District Judge,
Kancheepuram District at Chengalpet.



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S.M.SUBRAMANIAM, J.

and

K.RAJASEKAR, J.

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