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W.A.No.2991 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2024

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN**

**W.A.No.2991 of 2024
and C.M.P.No.22454 of 2024**

1.Government of Tamil Nadu
Highways and Minor Ports (HL-1)
Department, Secretariat, Chennai-600 009
Represented by its Additional Chief
Secretary to Government (FAC).

2.The Director General (H)
Highways Department
Chennai - 600 025.

.... Appellants

Vs.

V.Kumaresan

.... Respondent

Prayer : Writ Appeal under Clause 15 of the Letters Patent to pass an order
setting aside the order dated 15.06.2023 made in W.P.No.18924 of 2019.

For Appellant : Mr.S.Yaswanth
Additional Government Pleader

For Respondent : Mr.G.Amalraj



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ORDER

(Order of the Court was made by **R.SURESH KUMAR, J.**)

This intra Court Appeal is directed against the order passed by the Writ Court in W.P.No.18924 of 2019 dated 15.06.2023.

2. Against the respondent herein / writ petitioner, three charges were framed by the Tribunal for Disciplinary Proceedings, Coimbatore. After enquiry, it was found that the main charge is Charge No.3 against the delinquent ie., preparation of false or bogus bills or vouchers. Even that charge has not been proved. However, according to the Commissioner for Disciplinary Proceedings, there has been a procedural lapse in preparing the vouchers. Therefore, that was taken into account by the appellant Government, who was the disciplinary authority to state that there has been a partial proof of the charge ie., Charge No.3 against the delinquent and for the same, a punishment of stoppage of increment for one year without cumulative effect has been imposed against the delinquent, as against which he filed W.P.No.18924 of 2019 before this Court.

3. The Writ Court, after having considered the merits of the case, has come to the conclusion that the Government, being disciplinary authority, without having any discussion or independent appreciation of the evidence



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leading to the findings of the case of the respective parties, excepting for merely reproducing the charges, statement of defence and findings of the Tribunal for disciplinary proceedings, ought not to have imposed the punishment. Therefore, that cannot be sustained and accordingly the writ Court has interfered with the said punishment order and allowed the writ petition, against which the present appeal has been preferred.

4. Though the learned Additional Government Pleader appearing for the appellant Government wants to assail the order passed by the Writ Court by stating that even if one charge framed against the delinquent is partially proved, proportionate to the proven charge, such a punishment of stoppage of increment for one year without cumulative effect since has been imposed, that ought not to have been interfered by the learned Judge and therefore he seeks for setting aside the order passed by the Writ Court.

5. Mr.G.Amalraj, learned counsel for the respondent would submit that, even the one charge made against the delinquent / respondent since has not been proved and to that extent the Government, to come to such a conclusion that the charge has been partially proved, has not dealt with anywhere in the order impugned before the writ Court and no discussion has been made in that regard, and therefore the findings of the learned single Judge is fully justifiable.



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6. We have considered the submissions made by the learned counsel for both sides and the materials available on record.

7. As has been rightly pointed by the learned counsel for the respondent, the learned Judge in his approach in disposing the writ petition has pointed out in Para 12 of the impugned order that, absolutely there has been no discussion and no reasoning has been given by the Government ie., the disciplinary authority in passing the order of punishment in G.O.(D) No.51, Highways and Minor Ports (HL-1) Department dated 09.04.2019 as to why the Government has come to such a conclusion that part of the charges has been proved. Therefore, the order of punishment is liable to be interfered with.

8. The disciplinary proceedings in service matters is mainly based on preponderance of probabilities. Here in the case on hand, there has been no conclusive version from the enquiry authority to come to the conclusion that at least one charge has been proved against the delinquent. When that being so, without any reasoning or discussion since the Government being disciplinary authority has simply imposed the punishment against the delinquent as if part of the charge has been proved, for which there has been no finding directly from the enquiry authority.



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9. Therefore, we are not inclined to accept the contentions raised by the learned Additional Government Pleader and therefore, the order passed by the writ Court is to be sustained. Resultantly, this writ appeal fails and hence it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) (C.S.N.,J.)
25.11.2024

Internet : Yes/No
NCS : Yes/No
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and

C.SARAVANAN, J.

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