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WA No.416 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2024

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.416 of 2024
and
CMP No. 2793 of 2024

1. The Commissioner of Rural Development
Panagal Building, Saidapet,
Chennai - 600 015

2. The District Collector,
PD Section, Coimbatore District,
Coimbatore

.. Appellants

Versus

N. Parthipan

.. Respondent

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 29.09.2022 passed by the learned Judge in WP. No. 1707 of 2012.

For Appellants : Mr. S. Yashwanth,
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

The appellants have preferred this intra-court appeal, aggrieved by the order dated 29.09.2022 passed by the learned Judge in W.P. No.1707 of



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2. The respondent has filed the above stated Writ Petition praying to issue a Writ of Certiorari to quash the proceedings dated 14.10.2011 of the first appellant modifying the order dated 15.08.2010 of the second appellant, with all consequential benefits.

3. Succinctly stated facts of the case as projected by the appellant are as follows:

3.1. The respondent was appointed as Junior Assistant on 25.10.1985 and after successive promotions, he was working as Block Development Officer (MGNREGS - Mahatma Gandhi National Rural Employment Guarantee Scheme) at Coimbatore. During the course of such employment, the Project Officer, District Rural Development Agency inspected the Pongalur Block and noticed that certain works have not been completed in the Village Panchayat within the prescribed time. On the basis of the report of the Project Officer, the second appellant issued a Charge Memo dated 22.01.2009 under Rule 17 (a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, to the respondent, alleging that he was instrumental for the delay in execution of certain works like desilting of tank at Nachipalayam and Peruntholuvu Village Panchayats; and failure to oversee the implementation of the works carried out



under the MGNREGS, within Pongalur Block.

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3.2. On 13.03.2009, the respondent submitted his explanation denying the charges. The second appellant, taking note of the explanation offered by the respondent passed the order dated 15.08.2010 imposing the punishment of stoppage of increment without cumulative effect for one year. Aggrieved by the order dated 15.08.2010, the respondent preferred a departmental appeal before the first appellant. The first appellant, after perusing the documents made available including the explanation of the respondent, passed the order dated 14.10.2011, modifying the punishment into one of stoppage of increment without cumulative effect for a period of six months. Challenging the same, the respondent has filed the writ petition for the above stated relief.

4. The leaned Judge, on considering the rival submissions, allowed the writ petition on 29.09.2022. For better appreciation, Para Nos.3 to 5 of the said order are quoted below:

"3. While challenging the original order of punishment, the petitioner had raised several grounds. However, the first respondent had disposed of the appeal with a single line, stating that he agrees with the decision of the District Collector regarding the lapses in execution of works without any other findings or observations. Such an order is apparently a non-speaking order and impermissible in service jurisprudence. When certain grounds are raised in an appeal petition, there is a duty cast on the Appellate Authority to deal with all the grounds raised by the employee. As such, the order itself cannot be sustained.



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the matter back to the first respondent for re-considering the appeal. However, it is now brought to the notice of this Court that the petitioner had already retired from his service. While that being so, remitting the matter back would cause prejudice to the petitioner.

5. *In the light of the above observations, the impugned order passed by the first respondent dated 14.10.2011 is quashed and accordingly, the Writ Petition stands allowed. No costs."*

5. Aggrieved by the above said order dated 29.09.2022 of the learned Judge, the appellants are before this Court with the present writ appeal.

6. The learned Additional Government Pleader appearing for the appellants submitted that the respondent was given an opportunity to submit his explanation to the charge memo. The second appellant, on perusal of the explanation, passed the order dated 15.08.2010 imposing the punishment of stoppage of increment without cumulative effect for a period of one year. The order of punishment so passed by the second appellant was modified by the first appellant, into one of stoppage of increment without cumulative effect for a period of six months, on the appeal filed by the respondent. Thus, according to the learned counsel, leniency was already shown by the first appellant in the matter of imposing the punishment. The learned counsel further submitted that it is not the case of the respondent that the punishment of stoppage of increment for a period of six months imposed by the first appellant is disproportionate to the nature of delinquency. In any event, there are adequate proof to show that the respondent was instrumental for the delay in execution



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of the project and he failed to exercise his supervisory powers to ensure that the works are completed within the stipulated time. Thus, taking note of the delinquency on the part of the respondent, the appellant authorities have rightly imposed the punishment on the respondent. While so, the learned Judge ought not to have interfered with the same, by allowing the writ petition filed by the respondent. The learned Additional Government Pleader therefore prayed to set aside the order of the learned Judge and allow this writ appeal.

7. We have heard the learned Additional Government Pleader appearing for the appellants and also perused the materials placed on record.

8. It is seen that for certain lapses committed by the respondent, charge memo was issued and it culminated in passing of an order dated 15.08.2010 by the second appellant, inflicting punishment of stoppage of increment without cumulative effect for a period of one year, on the respondent. On appeal, the first appellant reduced the punishment into one of stoppage of increment without cumulative effect for a period of six months. The respondent preferred the writ petition assailing the said order of punishment passed by the appellant authorities. On appreciation of the records, the learned Judge noticed that the first appellant, while dealing with the



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statutory appeal, has not given any reasons for concluding that the delinquency against the respondent was proved through evidence brought on record; and he has simply extracted the charges, explanation offered by the respondent, order of punishment passed by the second appellant and rejected the appeal on the ground that the decision of the second appellant that there are lapses in the execution of work, is justifiable. Therefore, the learned Judge was of the view that the order of the first appellant was liable to be set aside and in the normal circumstances, the matter would have been remanded back to the first appellant for fresh consideration. However, considering the fact that the respondent had already retired from service, the learned Judge rightly quashed the order passed by the first appellant and accordingly, allowed the writ petition. It is trite law that the appellate authority being the last fact finding authority is required to pass a speaking and reasoned order; and the specific averments made and grounds taken in the appeal are required to be taken into consideration. The absence of reasons in the order would be the main ground, on which such order would be interfered by the Court in exercise of power under Article 226 of the Constitution of India. Therefore, we do not find any reason to interfere with the order so passed by the learned Judge.

9. In fine, the writ appeal is dismissed as devoid of merits. No costs.



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Consequently, connected miscellaneous petition is closed.

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[R.M.D., J.] [M.S.Q., J.]
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Index : Yes / No
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