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W.P.No.35215 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

W.P.No.35215 of 2024

K.Latha .. Petitioner

Vs.

1. The District Munsif
Arni, Tiruvannamalai District.

2. The Principal District Judge
Tiruvannamalai
Tiruvannamalai District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorari, calling for the records relating to the order dated 25.08.2024 made in D.P.No.05/2020 on the file of the second respondent herein and quash the same.

For the Petitioner : Mr.C.Munusamy

For the Respondents : Mr.M.Kemprij

ORDER

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

This writ petition has been filed against the order of punishment imposed by the second respondent, namely, the Principal District Judge, Tiruvannamalai, by order dated 25.08.2024.



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2. The writ petitioner has been in-service for more than 17 years before this occurrence had taken place and a punishment was imposed upon her. On a particular day, that is on 16.04.2013, when the petitioner was entrusted with the job of forwarding the original Court records to the District Munsif Court to the Appellate Court, that is to the Sub-Court, Arni, in O.S.No.299 of 1989, which was decreed long back on 27.06.1993, the writ petitioner delinquent, having recorded as if the original records containing of various documents in the Record Issue Register [for brevity, hereinafter referred to as, "RIR"] has forwarded to the Appellate Court. However, subsequently, it was found out by the Judge of the Appellate Court that some of the documents are not available with the documents forwarded by the District Munsif Court and thereafter, when the sme was brought to the notice of the Disciplinary Authority, the Disciplinary Authority initiated Disciplinary Proceedings against the writ petitioner delinquent.

3. Charges were framed against the writ petitioner delinquent that when she sent the original records to the Appellate Court, she did not properly verify what are all the documents that are being



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forwarded to the Appellate Court and without verifying the same, simply recorded in the RIR and forwarded the documents. Thereby, there has been dereliction of duty on the part of the delinquent. Therefore, on that count, charges were framed and an enquiry was conducted.

4. After completion of the enquiry, in the report of the Enquiry Officer dated 29.08.2023, the Enquiry Officer has stated that the charges framed against the delinquent has not been proved for the imposition of punishment under Rule 17(b) of the Tamil Nadu Civil Servants (Discipline and Appeals) Rules, 1955.

5. The Principal District Judge, who is the Disciplinary Authority, has taken up the matter after having verified the Enquiry Officer report. The Disciplinary Authority found that the Enquiry Officer has not considered the own admission made by the delinquent that she only recorded entries in the RIR. Therefore, he decided to issue notice to the delinquent and a show-cause notice also was issued that the Enquiry Officer report is not agreeable to the Disciplinary Authority in view of the own admission made by the delinquent.



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6. Thereafter, a reply has been given by the delinquent to the show-cause notice, where she claimed that on the date of forwarding the case records in question, the delinquent was not assigned with the duty of record keeping and she also claims that there is absolutely no document to show that the case records in question from 27.06.1993 to 16.04.2013 were under the care and custody of the delinquent. The delinquent also has taken defence that none of the witnesses examined by the prosecution side agreed to the case connecting the delinquent and also none of the witnesses stated that the delinquent alone is responsible for the records went missing.

7. After having gone through the report of the Enquiry Officer, the Disciplinary Authority has threadbare discussed the issue, where he found out that in the RIR, it has been recorded by the delinquent about the original records, which in fact has been admitted by the delinquent herself. When she entered the details in the RIR about the records that were being forwarded to the Appellate Court, though she has mentioned about the records including the documents for several pages, where those documents are also



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available, those records were not at all verified and without verifying the same, the records have been sent to the Appellate Court and it was found by the Appellate Court that some of the documents are missing or not annexed in the records, even though it has been stated in the RIR that these records have been forwarded.

8. This carelessness and dereliction on the part of the delinquent warranted Disciplinary Proceedings. Since this position has been proved by way of the own admission made by the delinquent and also the evidences to show that in the RIR and the Dispatch Register at the Munsif Court at Arani, that all these entries have been made by the delinquent herself, the admitted fact need not be proved and more so, the documentary evidences would go to show that there has been dereliction of duty on the part of the delinquent.

9. The delinquent was not in-charge of records keeping and she did not keep records from 1993-2013 and that no witnesses during the enquiry has shown a finger against the delinquent were all the defences though had been taken by the delinquent and based on which the Enquiry Officer has given a report stating that the



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charges have not been proved, but the fact remains that the dereliction on the part of the delinquent has been expressed by virtue of the admission made by the delinquent as well as the entries made in the RIR itself. Therefore, after taking into consideration all these factual matrix, the Disciplinary Authority has come to the conclusion that punishment has to be imposed upon the delinquent for the proven charges and therefore, taking into account that in the 17.5 years of service rendered by the delinquent since no other Disciplinary Proceedings are pending against the delinquent, a lenient view has been taken, according to the disciplinary authority, by imposing a major penalty of withholding all increments for a period of one year with cumulative effect. This is the order of punishment which is impugned in this writ petition.

10. We have heard *Mr.C.Munusamy*, learned counsel appearing for the petitioner and *Mr.M.Kempuraj*, learned counsel appearing for the respondents.

11. The facts which we have discussed herein above are not in much dispute. Though the Enquiry Officer in this regard has stated that the charges have not been proved based on the aforesaid reasons, the fact remains that in the RIR, it has been specifically



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recorded by the delinquent and her own admission that such entries have been made by her and she was the in-charge on that particular day, it should have been verified by the delinquent as if whether all the documents mentioned in the list or catalogue record of the RIR are really available to be forwarded to the Appellate Court. Without verifying the same, since it has been sent, where several documents are missing or not annexed with the records sent to the Appellate Court, which was subsequently found by the Appellate Court, certainly it is dereliction on the part of the employee, that is the writ petitioner. Therefore, she is liable to be punished.

12. However, insofar as the nature of the case, we do feel that the major punishment imposed upon the delinquent may be disproportionate for the simple reason that she was not the in-charge of the records and she was only entrusted on that particular day to forward the records and she was not assigned the task of keeping or maintaining the records at any point of time.

13. This point would gather momentum towards taking any further lenient view by imposing punishment from withholding the increment with cumulative effect for one year, into that of any



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reduced punishment, which we feel that the punishment of withholding of the increment for one year without cumulative effect would be justifiable and proportionate to the delinquent.

14. In the result, we dispose of the present writ petition with the following orders:-

The punishment imposed by the Disciplinary Authority through the impugned order is hereby modified into punishment of withholding of the increment of the writ petitioner delinquent for one year without cumulative effect and it shall not affect the increment and other service benefits of the delinquent.

15. With these modifications of the punishment, imposed through the impugned order, this writ petition stands disposed of. There shall be no order as to costs. Consequently, W.M.P.No.38127 of 2024 is closed.

(R.S.K., J.) (C.S.N, J)
28.11.2024

Neutral Citation:Yes/No



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To:

1. The District Munsif
Arni, Tiruvannamalai District.
2. The Principal District Judge
Tiruvannamalai
Tiruvannamalai District.



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R. SURESH KUMAR, J.
AND
C. SARAVANAN, J.

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