



W.A.(MD) No.301 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.06.2024

CORAM

JUSTICE N. SESHASAYEE

and

JUSTICE L.VICTORIA GOWRI

W.A.(MD) No.301 of 2021

1.The Principal Secretary to Government,
State of Tamil Nadu,
Labour and Employment (E1) Department,
Fort St. George, Chennai-600 009.

2.The Commissioner of Labour,
Chennai-600 006.

... Appellants/Respondents

Vs.

S.Indumathy

... Respondent/Petitioner

Prayer: Appeal filed under Clause 15 of Letters Patent against the order dated 19.11.2019 made in W.P.(MD) No.415 of 2016.

For Appellants : Mr.N.Muthuvijayan
Special Government Pleader



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For Respondent : Mr.D.Venkatachalam

JUDGMENT

(Judgment of the Court was delivered by N.Seshasayee, J.)

This appeal is directed against an order of a learned Single Judge of this Court in W.P.(MD) No.415 of 2016, which the respondent has filed challenging certain penalty imposed on her in a domestic enquiry conducted by the appellants herein.

2. At the relevant time, the appellant was working as Labour Officer (Social Security Scheme), Trichy and the alleged act of delinquency levelled against her is that she had not maintained any registers or books of accounts, etc., for the period commencing from 31.12.2008 to till the date of her suspension, (i.e., 12.07.2010) and she was promptly suspended. It may be underscored that the charge does not include defalcation of amounts or misappropriation of amounts. What is significant here is that the duties which the respondent had breached itself was formulated on 02.08.2010, subsequent to her



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suspension. An enquiry was duly conducted in which the appellants chose to examine no witnesses, but only produced two documents. One of the significant line of defence taken by the delinquent/respondent herein is that all critical posts were left vacant and it is a fact which even the appellants did not dispute and as earlier stated, the very duty and responsibility of the Labour Officer (Social Security Scheme) was formulated not before the date of suspension of the delinquent, but after her suspension. In other words, the state of affairs that was there prior to 02.08.2010 appear to be amorphous with no well defined demarcation of duties.

3. It is, in these circumstances, the Enquiry Officer found the appellant guilty and on 19.06.2015, the first appellant *vide* G.O.(2D) No.31, Labour and Employment (E1) Department, dated 19.06.2015, imposed the penalty of stoppage of increment for five years. *Vide* another G.O.(2D) No.30, Labour and Employment (E1), passed on the same date, the Government revoked the order of suspension and the respondent was reinstated on 03.08.2015.



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4. The aforesaid order imposing penalty was challenged by the respondent before the learned Single Judge in W.P.(MD) No.415 of 2018 and the learned Single Judge took note of the facts stated hereinabove and allowed the writ petition. This order of the learned Single Judge is now under challenge.

5. Heard Mr.N.Muthuvijayan, learned Special Government Pleader for the appellants and Mr.D.Venkatachalam, learned counsel for the respondent.

6. Learned Special Government Pleader made his valiant efforts to convince this Court as to why the order of the learned Single Judge warrants an interference. However, we are least impressed by his line of defence essentially because the twin grounds on which the learned Single Judge had allowed the writ petition cannot be countered by the learned Special Government Pleader effectively. After all, when duties and responsibilities were not even drafted and when all critical posts were left vacant, one cannot expect one officer to provide dramatic results. Part of the blame has to be shared by the appellants and the effect of its failure cannot be shifted to the respondent.



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7. To conclude, we do not find any reasons to interfere with the order dated 19.11.2019 passed by the learned Single Judge in W.P.(MD) No.415 of 2016.

8. Accordingly, this Writ Appeal is dismissed. No costs.

(N.S.S., J.) (L.V.G., J.)
11.06.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes

ABR

To

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