



WP(MD). No.8408 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 12/04/2024

CORAM

The Hon`ble Ms.Justice R.N.MANJULA

WP(MD). No.8408 of 2023 and
WMP(MD) Nos.7730 and 7732 of 2023

Pandiarajan. V

... Petitioner

Vs

1. State of Tamil Nadu,
Rep. by its Additional Chief Secretary
to Government, Water Resources
Department, Fort St.George, Chennai - 9..

2. State of Tamil Nadu,
Rep. by its Principal Secretary to
Government, Public Works Department,
Chennai – 9..

... Respondents

PRAYER :-Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorari calling for the records pertaining to the impugned orders in Charge Memo in Letter No. 1981/E1/2015-30 dated 15.06.2018 issued by the 2nd respondent and consequential order of the 1st respondent imposing the punishment of withholding of petitioners increment for one year without cumulative effect vide G.O.(D).No.325 Water Resources (D1) Department dated 26.12.2022 and quash the same.



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For Petitioner : M/s.Karthikeyan.V
For Respondents : Mr.M.Rameshkumar
Government Advocate

ORDER

Challenging the order of the 2nd respondent dated 15.06.2018, the petitioner is before this Court.

2. The petitioner who has suffered an order of punishment with stoppage of increment for one year without cumulative effect has filed this writ petition.

3. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

4. The learned counsel for the petitioner would submit that after an exhaustive enquiry conducted, in the departmental proceedings, the enquiry officer had come to a conclusion that the charges have not been proved. However, the first respondent had not chosen to accept the report of the enquiry officer and he gave a notice to the petitioner by taking a



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dissenting view.

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5. The petitioner submitted his explanation, but the first respondent, without considering the same and without stating any reasons for rejecting the enquiry report, had proceeded to pass an order of punishment of stoppage of increment for one year without cumulative effect. It is further submitted that the co-delinquent, who also faced the enquiry along with the petitioner has been relieved of all the charges and as against her the report of the enquiry officer has been accepted.

6. The reasons for deviating from the finding of the enquiry officer has been stated in the impugned order as under:

“5. After careful and independent examination of the charge framed against the delinquent officer, defence statement of the delinquent officer, findings of the inquiry officer, reasons for deviation from the findings of the inquiry officer, further representation of the delinquent officer on the deviated findings of the Government and the records connected to the case, the Government confirmed the provisional Conclusion of holding the charge against Thiru V. Pandiarajan, Block Development Officer, Rural Development and Panchayat Raj Department, as proved for the Following reasons:



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In his capacity as the Additional Superintendent (Schemes), District Rural Development Agency, Thoothukudi, the delinquent officer ought to have cross checked the name of the work mentioned in the estimate with the name of the work for which the administrative sanction was sought, while putting up the note. But, he failed to do so. It is evident from the documents such as note file and administrative sanction order that the delinquent officer acted negligently by not cross-checking the name of the work while putting up the note file for granting administrative sanction for the work of "Construction of flood protection wall near check dam in the supply channel to Sayarpadaithangi Tank in Akilandapuram Village".

7. The petitioner was given with a show cause notice and it has been stated that the petitioner/delinquent officer ought to have known the difference between the words “தடுப்பணையின் அருகில் and near flood escape”, but he had submitted a note order for granting administrative sanction for the work in the name of 'near check dam' even though estimate was prepared for the work 'near flood escape'. The contention of the petitioner is that the sanctioning officer by name Bamini Latha, the then Assistant Project Officer (Accounts), District Rural Development agency, Thoothukudi, has given the sanction order but she has been relieved from the charges. The petitioner was subordinate to the said officer and he has prepared the note file in a routine manner and that had



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caused the confusion in the grant of sanction for some other project instead of the project for which the sanction ought to have been given.

The superior officer, should also peruse the file, before granting sanction, even though her subordinate had prepared the note file in a negligent manner. But the mistake was omitted to be noticed even at the higher level. When the superior officer was relieved of the charges by accepting the report of the enquiry officer, the same benefit ought to have been given to the petitioner also. But, the first respondent had chosen to take a different view in the case of the petitioner alone.

8. It is right to state that the petitioner ought to have known the difference between the words, “தடுப்பணையின் அருகில் and near flood escape”. When the superior officer who also omitted to notice was let free, the petitioner who caused the note, could have been warned instead of given with a punishment of stoppage of increment for one year.

9. The learned counsel for the petitioner attracted the attention of this Court to the decision of the Hon'ble Supreme Court in ***Rajendra Yadav v. State of Madhya Pradesh and others [(2013) 3 SCC 73]***,



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wherein, it is held that while imposing punishment where a set of people involved in a same incident, parity among co-delinquents should be maintained.

10. Even in the case on hand, though punishment is not disproportionate, there is no parity between the co-delinquents. In the administrative file movement, the superior officer who approves the note also, no doubt plays a crucial role. If the note making staff commits error in preparing the file and misleads the next level authorities, wrong orders might be obtained. So it is right for the first respondent to expect that the petitioner shall know the difference between “தடுப்பணையின் அருகில் and near flood escape” and be vigilant in preparing the office note. But the responsibility of the superior officer is no way less than the staff who is responsible to prepare a note file. As the superior officer has not been found fault with and she was allowed to go free, I feel the punishment order issued against the petitioner should be set aside.



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11. In view of the above stated reasons, the writ petition is allowed and impugned order of the 2nd respondent dated 15.06.2018 is quashed and the punishment of stoppage for one increment without cumulative effect is modified to one of 'severe warning and to be careful in future'. No costs. consequently connected Miscellaneous Petitions are closed.

12.04.2024

NCC : Yes/No
Index : Yes/No

RR

TO

1. The Additional Chief Secretary to Government,
Water Resources Department,
Fort St.George, Chennai - 9..
2. The Principal Secretary to Government,
Public Works Department,
Chennai - 9..



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R.N.MANJULA, J.

RR

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