



WP(MD) Nos.18444, 18448 and 18450 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.02.2024

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THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P(MD)Nos.18444, 18448 and 18450 of 2020

and

**W.M.P.(MD)Nos.15441, 15443, 15447,
15448 and 15451 & 15452 of 2020**

I.Devi Kanchana

... Petitioner in
W.P.(MD)No.18444/2020

K.Suresh

... Petitioner in
W.P.(MD)No.18448/2020

K.Paramarthalingam

... Petitioner in
W.P.(MD)No.18450/2020

Vs.

1.District Adi-Dravidar & Tribal Welfare Officer,
Kanyakumari District,
Kanyakumari.

2.Special Tahsildar (ADW),
Nagercoil,
Kanyakumari District.

... Respondents in
all W.Ps.



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COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, to call for records on the file of the 1st respondent in connection with the impugned order of punishment passed by him in his proceedings in Na.Ka.No.J1/22322/2020 dated 12.11.2020 and quash the same in so far as the petitioners are concerned as being arbitrary and unlawful.

For Petitioners : Mr.K.Gurunathan
(In all W.Ps)

For Respondents : Mr.NA.GA.Nataraj,
(In all W.Ps) Govt. Advocate.

COMMON ORDER

All the petitioners in these Writ Petitions were subjected to disciplinary proceedings by issuing a charge memo dated 28.10.2020 on certain alleged misconduct under Rule 17(a) of the 'Tamil Nadu Civil Services (Discipline & Appeal) Rules' (hereinafter referred to as 'said Rules'), proposing to impose a minor penalty. After having received the



explanation from the petitioners, the respondent No.1 issued the impugned orders imposing the punishment of stoppage of increment for three months with cumulative effect. In addition to the said punishment, the first respondent also ordered that if the petitioners continue the same situation in future, they will be inflicted with major punishment i.e., removal from service etc.

2. The learned counsel for the petitioners mainly attacked the impugned order on the ground that the punishment of stoppage of increment imposed on the petitioners is with cumulative effect and thus the same would amount to a major punishment warranting detailed procedure to be followed as contemplated under Rule 17(b) of the said Rules. But in the instant case, respondent No.1, without following such procedure has imposed the major punishment in the guise of imposing minor punishment contemplated under Rule 17(a) of the said Rules.

3. The learned counsel for the petitioners has also drawn the attention of this Court to the second proviso to Rule 17(a) of the Rules, wherein it is stated that in case if the disciplinary authority intends to impose the



punishment of withholding of the increment with cumulative effect for any period, the procedure laid down in sub-rule (b) of Rule 17 shall be followed before making any order imposing the punishment on the delinquent.

4. The counter affidavit filed by the first respondent only narrating the factual aspects and also the procedure that is followed by the respondents while issuing the impugned orders. There is nothing stated in the counter affidavit as to how the respondent No.1 is entitled to impose the punishment of stoppage of increment with cumulative effect without following the procedure contemplated under Rule 17(b) of the said Rules as mandated under the second proviso to Rule 17(a) of the said Rules. The second proviso to Rule 17(a) of the said Rules reads as follows:

“Provided further that, in every case where it is proposed, after considering the representation, if any, made by the Government servant, to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the Government servant or to withhold increments of pay without cumulative effect for a period exceeding 3 years or to withhold increment of pay with cumulative effect for any period, the procedure laid down in sub-rule (b) shall be followed before making any order imposing on the Government servant any such penalty.”



5. From the perusal of the above proviso, it is evident that it is mandatory for the disciplinary authority to follow the procedure that is provided under sub-rule (b) of Rule 17 of the said Rules, in case, if the disciplinary authority intends to impose punishment of withholding of increment of pay with cumulative effect for any period. In the instant case, the punishment that is imposed on the petitioners is withholding of increment for a period of three months with cumulative effect. If that be so, the mandatory requirements as contemplated under second proviso to Rule 17(a) has to be followed by the respondents. In the instance case, the same is admittedly not followed by the respondent No.1, before issuing the impugned orders.

6. In the circumstances, the impugned proceedings are liable to be set aside for want of following the procedure contemplated under Rule 17(b) of the said Rules. Accordingly, the impugned orders are set aside. Taking into consideration the fact that the charges levelled against the petitioners are trivial in nature and all the petitioners were already promoted to the post of Watchman, this Court is not inclined to permit the respondents to continue the disciplinary proceedings any further.



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7. Accordingly, these Writ Petitions are allowed. Consequently, the connected miscellaneous petitions are also closed. There shall be no order as to costs.

15.02.2024

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

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