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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.18914 of 2023
and
W.M.P(MD)No.25741 of 2023

K.Samyvel

... Petitioner

Vs

1.The Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Adi Dravidar and Tribal Welfare,
Chepauk, Chennai – 600 005. ...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling the records of the second and first respondents i.e., the Commissioner of Adi Dravidar and Tribal Welfare, Chennai and the Principal Secretary to Government, Adi Dravidar and Tribal Welfare Department, Chennai in Na.Ka.No.E2/8418/2020 dated 04.07.2022 and in G.O.(Pa)No.143, Adi Dravidar and Tribal Welfare Department, dated 13.06.2023 respectively and quash the same and pass such further or other orders as this Court.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.D.Sasikumar
Additional Government Pleader



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ORDER

The instant writ petition has been filed by a Superintendent working in the Adi Dravidar and Tribal Welfare Department, challenging the final order passed in the disciplinary proceedings, wherein the petitioner has been inflicted with the punishment of postponement of increments for two years with cumulative effect.

2.The petitioner has been issued with a charge memo on 19.03.2020. A perusal of the charge memo reveals that one E.Santhanasamy, was working as Graduate Warden in Adi Dravidar Welfare Hostel was imposed with a punishment of order of recovery, by an order dated 26.04.2017. Though the order was received by the office on 05.06.2017, it was served upon the delinquent only on 22.03.2019, after the delay of two years.

3.The petitioner has submitted his explanation to the effect that he had joined duty on 16.11.2017 and his Assistant namely one A.Manoharan has not brought to his notice about the fact that such recovery order has been passed as against the said E.Santhanasamy. However, when it was brought to his notice, he has immediately taken steps to serve it upon the said E.Santhanasamy on 22.03.2019.



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4.This explanation of the writ petitioner was not accepted and the disciplinary authority had proceeded to inflict the postponement of two years with cumulative effect on the ground that the petitioner was negligent in his duty.

5.Challenging the said order of imposition of punishment, the petitioner had filed an appeal before the Government. The first respondent by his proceedings, dated 13.06.2023 has confirmed the order of punishment imposed by the disciplinary authority. These two orders are under challenge in the present writ petition.

6.According to the learned Counsel appearing for the writ petitioner, the order has been served in the office even before he has taken charge. The availability of the recovery order in the file of the office was not brought to his notice. As and when they were brought to his notice, they were immediately served upon the delinquent.

7.Per contra, the learned Additional Government Pleader appearing for the respondents herein had contended that the petitioner being a Superintendent,



he is overall in-charge of the office and he should have verified whether any Government orders had been sent to the office for being served to the Delinquent Officer. Therefore, it is a clear case of the gross negligence on the part of the writ petitioner. That apart, the petitioner, having not supervised his Assistant, there is a lack of supervision. Hence, he prayed for dismissal of the writ petition and sustained the punishment imposed upon the writ petitioner.

8.I have carefully considered the submission made on either side and perused the materials available on record.

9.The only misconduct that is alleged as against the writ petitioner is that he has not chosen to serve an order of recovery that was passed by the Government to the Delinquent Officer for a period of two years. The explanation that is offered by the writ petitioner is that the order was received by the office before he has taken charge and it was not informed to him. Such an explanation is not acceptable. Once the Government has passed an order and the office had received the said order, it should have been taken note by the office and it should have been served upon the employee concerned.



10. Considering the fact that it is an order of recovery, the same has to be served immediately so that the amount could be recovered from the delinquent officer. In such circumstances, this Court is of the considered opinion that the petitioner has been negligent and there is also lack of supervision. However, considering the fact that the petitioner has offered an explanation and no motive has been alleged as against the writ petitioner, the punishment imposed upon the writ petitioner could be modified as postponement of increments for a period of two years without cumulative effect.

11. In view of the above said deliberations, the order impugned in the writ petition is hereby modified to the extent that the petitioner shall be imposed with a punishment of postponement of two increments without cumulative effect. No costs. Consequently, connected miscellaneous petition is also closed. Accordingly, this writ petition stands partly allowed to the extent as stated above. Consequently, connected miscellaneous petition is also closed.

06.11.2024

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



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R.VIJAYAKUMAR, J.

RJR

To

1.The Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Adi Dravidar and Tribal Welfare,
Chepauk, Chennai - 600 005.

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