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W.P(MD)No.20202 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2024
(Reserved on 18.10.2024)

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.20202 of 2024
and
W.M.P(MD)Nos.17149 and 17150 of 2024

A.Subramanian

... Petitioner

VS.

1. The High Court of Madras
Rep. by its Registrar General,
Chennai-600 104.

2. The Registrar General,
High Court of Madras,
Chennai-600 104.

3. The Additional Registrar General,
Madurai Bench of Madras High Court,
Melur Main Road,
Narasingam,
Madurai-625023.

4. The Registrar (Administration),
Madurai Bench of Madras High Court,
Melur Main Road,
Narasingam,
Madurai-625023.

5. The Additional Registrar (Inspection),
Madurai Bench of Madras High Court,
Melur Main Road,
Narasingam,



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Madurai-625023.

6. The Sub Assistant Registrar (AD-I),
Madurai Bench of Madras High Court,
Melur Main Road,
Narasingam,
Madurai-625023.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings in Roc.No.31/2021/Con.Estt.II & Roc.No.46726-A/2021/Estt.II/MB dated 14.12.2023 passed by the 1st respondent herein confirming the punishment of stoppage of one increment with cumulative effect issued by the 2nd respondent herein vide impugned proceedings in Roc.No. 31/2021/Con.Estt.II & 46726-A/2021/Estt.II/MB dated 05.05.2023, quash the same and further direct the respondents herein to sanction and release the withheld increments in favour of the petitioner and regularize the period of suspension from 08.11.2021 to 26.12.2022, and sanction all attendant service benefits thereof.

For Petitioner : Mr.K.Ragatheesh Kumar
For R1 to R6 : Mr.N.Tamilmani

ORDER

(Order of the Court was made by **R.SUBRAMANIAN, J.**)

Challenge in this writ petition is to the order of the Registrar
General of this Court imposing punishment of stoppage of one increment with



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cumulative effect awarded to the petitioner.

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2. The petitioner who entered the services of this Court on 27.08.2001 as Office Assistant, was subsequently promoted as Assistant with effect from 02.05.2018 and he was posted at Madurai Bench of the Madras High Court. Since certain allegations of irregularities were made against him, he was transferred to the Principal Seat and was subsequently placed under suspension with effect from 08.11.2021. An explanation was also called for from him in connection with certain allegations of irregularities in producing fake fuel bills and in maintaining fuel bills towards petrol charges received from the visiting Hon'ble Judge/s. He had submitted his explanation on 30.11.2021. Dissatisfied with the explanation, as many as nine charges were framed against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules on 21.03.2022. An enquiry was conducted. The enquiry officer filed a report concluding that of the nine charges, second limb of charge No.3 and second limb of Charge No.4 alone have been proved. The other charges were held to be not proved. The disciplinary authority namely, the Registrar General of this Court, accepted the report of the enquiry officer and imposed the above punishment for the proved charges. Appeal and mercy petitions were also rejected. Hence, this writ petition.



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3. The petitioner would mainly contend that the findings of the enquiry officer regarding possession of the Toyota Innova Car and its ownership and the charge that a sum of Rs.1,000/- was collected from a visiting Judge towards fuel charges through the driver, are seriously flawed and they are against the evidence available on record. The petitioner would further contend that once the charges proved are very minor charges, he ought not to have been visited with a punishment of stoppage of increment with cumulative effect which will have a very serious consequence on his service.

4. We have heard Mr.K.Ragatheesh Kumar for M/s.Issac Chambers for the petitioner and Mr.N.Tamilmani, learned counsel appearing for the respondents 1 to 6.

5. Mr.Ragatheesh Kumar would vehemently contend that as regards the ownership of the Car, the petitioner's mother-in-law who was a Government servant, had tendered evidence to the effect that she had purchased the Car in the name of her daughter and she was having it at Chennai and the Car was actually handed over to her daughter at Madurai only in the year 2018. The learned counsel would also point out that though the mother-in-law of the petitioner was cross examined during the enquiry, nothing was elicited to show



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that the petitioner had purchased the Car in his wife's name. The Car was actually purchased even before 2014 and it was being rented out through M/s.Sangeetha Travels at Chennai. Evidence to that effect was available in the form of money transfer that has been made to the account of the petitioner in ICICI Bank in four instalments during the year 2014. As regards collection of Rs.1,000/- from a visiting Judge towards fuel charges, it is submitted that it is normally collected when Judges are picked up from the Airport. Therefore, according to the learned counsel, the finding of the enquiry officer that these two charges have been proved, does not have evidentiary support.

6. Contending contra, Mr.Tamilmani, learned counsel appearing for the respondents would submit that this Court sitting under Article 226 of the Constitution, cannot go into the correctness of the findings of the enquiry officer on facts. Once it is concluded that the petitioner was guilty of the charges, the Writ Court cannot lightly interfere with such finding. He would also point out that being disciplinary proceedings, strict rules of evidence cannot be applied and proof beyond doubt cannot be expected. The enquiry officer will have to necessarily go by preponderance of probabilities and if the conclusion reached is just and reasonable on the evidence available, the Writ Court should not interfere with the said conclusion.



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7. We have considered the rival submissions.

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8. The scope of proceedings under Article 226 in service matters is well settled. If the finding of the enquiry officer is just and reasonable and there is some evidence to support the conclusion, the Writ Court will not lightly interfere with the said finding. Let us now examine the conclusions of the enquiry officer with reference to the evidence that is available on record. The charges that are held to be proved are, the second limb of Charge No.3 namely, a sum of Rs.1,000/- was collected from the Hon'ble Judge who visited Madurai on 24.02.2021, towards fuel charges for the Car bearing registration No.TN 05 AG 1212 through the driver Thiru.N.Ramasamy by producing a fake bill dated 24.02.2021. The charge that the bill dated 24.02.2021 has been obtained as if diesel was filled for a petrol Car, has been held to be not proved. Only the receipt of Rs.1,000/- on production of a fake bill, has been held to have been established. The defence of the delinquent/petitioner is that actually, the fuel was filled on 13.01.2021 and since the fuel was not exhausted on that date and the Judge who had visited on that date, did not utilise the official Car, the said bill was re-validated on 24.02.2021 and the same was given to the Judge who visited Madurai on 24.02.2021. This explanation has not been accepted on the ground that the bill dated 13.01.2021 should have been produced before the Hon'ble Judge who visited Madurai on 24.02.2021, instead of a fake bill dated



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24.02.2021. The fact that the Judge who visited Madurai on 13.01.2021 did not use the official Car is admitted. The fact that the Judge who visited Madurai on 24.02.2021 has used the official Car is admitted. A sum of Rs.1,000/- has been collected only from the Judge who used the official Car. Therefore, the only delinquency is that a bill with the subsequent date was produced. There is no misappropriation of money collected from the Judge.

9. As regards the second limb of Charge No.4 that the petitioner has purchased a Toyota Innova Car on 03.10.2012 in the name of his wife without permission/intimation to the office and also sent the Car for rental and received money from Travel Agencies which were also credited to the petitioner's bank account, the defence of the petitioner is that it was his mother-in-law who was working in the Income Tax Department, had purchased the Car and she handed over the Car to the petitioner's wife only in the year 2018. The Car was used by her superiors of the Income Tax Department through M/s.Sangeetha Travels at Chennai and the cost of diesel would be credited to the account and it is seen that four transactions have been reflected in the account of the petitioner for receipt of money from Sangeetha Travels at Chennai. The amount credited each time varies. The charge is that the Car was purchased in the name of the wife of the petitioner without intimation / permission of the employer namely, the High Court. The fact that the mother-in-law of the petitioner was employee



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of the Income Tax Department is also admitted. The Car also stands in the name of the wife of the petitioner. Of course, the petitioner is duty bound to seek permission or intimate the employer if any movable property or valuables above Rs.25,000/- is purchased and there is a failure on the part of the petitioner in intimating the same. Here again, we find that there has been no misappropriation on the part of the petitioner.

10. The punishment imposed is stoppage of increment with cumulative effect. Though the punishment is a minor punishment, this will have a spiralling effect and it will result in the petitioner not being considered for promotion. This Court can interfere with the quantum of punishment only if it is shockingly disproportionate. The punishment must commensurate to the proved charges. Both the proved charges are only minor irregularities and there is no misappropriation of the funds of the employer. Stoppage of increment by itself cannot be considered to be disproportionate, but when it is made with cumulative effect, it has a long-lasting effect and it would demoralise the employee. We are, therefore, of the considered opinion that the quantum of punishment needs to be interfered with. We, therefore, modify the punishment as stoppage of one increment without cumulative effect.

11. In fine, the Writ Petition is partly allowed. No costs. The



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punishment imposed is modified as stoppage of one increment without cumulative effect. Consequently, connected miscellaneous petitions are closed.

(R.S.M, J.) (L.V.G, J.)
02.122024

Index : Yes / No
Neutral Citation : Yes / No
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L.VICTORIA GOWRI, J.

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PRE-DELIVERY ORDER MADE IN
W.P(MD)No.20202 of 2024
DATED : 02.12.2024