BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.22095 of 2017
and
WMP(MD)Nos.18411 of 2017, 8753 of 2019

K.Saravanan .. Petitioner

v.

1.The Government of Tamil Nadu,
Rep. by the Secretary to Government,
Rural Development and Panchayat Raj (E1) Department,
Secretariat, Chennai.

2.The Director of Rural Development and Panchayat Raj Department,
Panagal Building,
Chennai – 15.

3.The Tamil Nadu Public Service Commission,
Rep. by its Secretary,
Brazer Bala Salai,
Chennai – 600 003.

4.The District Collector,
Collectorate,
Madurai District,
Madurai – 625 020. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records of the impugned order passed by the first respondent in G.O(D)No.312, Rural Development and Panchayat Raj (E1) Department, dated 17.06.2017 and quash the same.

For Petitioner : Mr.A.K.Hemaraj

For Respondents : Mr.P.T.Thiraviam
Government Advocate
for R.1, R.2, R.4

Mr.J.Anandhakumar for R.3

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ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 17.06.2017, whereby the petitioner, a then-serving Union Overseer in the T.Kallupatti Panchayat Union, Madurai District, was imposed with the punishment of "Stoppage of increment for a period of one year with cumulative effect", along with recovery of 50% of the financial loss alleged to have been caused to the Government, amounting to Rs.1.925 lakhs, to be recovered in 14 instalments from his salary.

2.The background of the matter is that a charge memo was issued to the petitioner on 03.10.2012 by the District Collector, Madurai, in connection with his role in the implementation of the Indira Awas Yojana (IAY) Scheme during the year 2009–2010 in Kenjampatti Village. The charge memo levelled two specific allegations:

(1) that funds were sanctioned and disbursed to seven beneficiaries who had already received assistance under the same scheme in the years 1991–1992 and 1999, and no actual construction had taken place for the newly sanctioned dwellings, leading to a misappropriation of Rs.3,85,000/-; and

(2) that the petitioner violated Rule 20(1) of the Tamil Nadu Government Servants Code of Conduct Rules, 1973.

3.The allegation further stated that the Assistant Engineer had made false entries in the ‘M’ Book regarding construction progress, based on which the Block Development Officer (BDO) sanctioned the release of funds. Initially, a departmental enquiry was initiated, but the Enquiry

Officer was transferred. Thereafter, a fresh Enquiry Officer at the level of Joint Director was appointed on 26.10.2014, who conducted proceedings and submitted his report on 22.04.2015, holding the charges as proved. Based on the said report, the disciplinary authority imposed the impugned punishment.

4.Contentions of the Petitioner:

4.1.The petitioner contended that the enquiry was vitiated for want of fair procedure. He claims he was not provided with copies of supporting documents and material relied upon by the Enquiry Officer, thereby violating Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

4.2.It is stated that the list of beneficiaries was approved by the Gram Sabha, and that the petitioner had no role in the selection. It is submitted that the first phase of the scheme was handled by one N.Natarajan, the previous Overseer, and the work order was issued to the petitioner only on 13.11.2009, after the administrative groundwork had been laid by others.

4.3.According to the petitioner, it was the then BDO, one R.Sathiya Gandhi, who sanctioned the original work order on 27.02.2009 after scrutiny by the Deputy BDO (Adi Dravida). However, no disciplinary action was taken against the said BDO, who was allowed to retire without facing any charge memo.

4.4.The petitioner claimed that he was functioning as a technical officer and that supervision of beneficiary eligibility or sanctioning funds did not fall within his official domain. According to him, he executed the second phase of the work in accordance with directions, supported by photographs, and denied any personal involvement in the irregularities.

4.5.He also pointed out that the Enquiry Officer relied heavily on the Audit Report of the Assistant Director (Audit), without examining the author during oral enquiry. This, according to him, has resulted in miscarriage of justice, particularly as the said audit report was contrary to the field-level verification done by the BDO (Village Panchayats).

4.6.Lastly, it is urged that the petitioner is the sole earning member of his family, earning a modest income, and that the burden of recovery of nearly Rs.2 lakhs would result in financial ruin and irreparable hardship.

Therefore, he prayed for appropriate orders.

5.Contentions of the Respondents:

5.1.Per contra, the learned Government Advocate appearing for the respondents submitted that the petitioner was appointed as the Supervising Authority for the scheme works in Kenjampatti Village, under proceedings dated 13.11.2009. Hence, his plea of non-involvement is untenable.

5.2.The IAY Scheme is governed by detailed operational guidelines and is further supported by the Tamil Nadu Panchayats (Preparation of Plans and Estimates for Works and Mode and Conditions of Contracts) Rules, 2007. As per Rule 5 and G.O.Ms.No.132, Rural Development and Panchayat Raj Department, dated 04.08.2008, the Union Overseer is designated as the Measuring Officer for works below Rs.1 lakh. A subsequent amendment by G.O.Ms.No.111, Rural Development and Panchayat Raj Department, dated 21.08.2018 has made the Union Overseer the Measuring Officer for all housing works, regardless of value.

5.3.It is submitted that the IAY Scheme is intended to uplift Below Poverty Line (BPL) families by providing dignified housing. The petitioner, as a field-level functionary, bore direct responsibility to physically verify and report discrepancies, if any.

5.4.Disciplinary action was initiated based on the Audit Report dated 14.08.2012, filed by the Assistant Director (Audit), Rural Development, Madurai, which unearthed glaring irregularities in the execution of the IAY Scheme. The report pointed out that certain beneficiaries had already received assistance under the scheme in earlier years and had constructed houses long ago. In other cases, constructions were either absent or unfit for habitation, and in some instances, flimsy materials had been used. More significantly, the audit raised serious doubts about the authenticity of the documentation that had been relied upon to disburse funds. The so-called "vouchers" produced in support of the payments to beneficiaries were alleged to be dubious — they carried varying signatures purportedly by the same beneficiary, and, notably, were all attested by a Notary Public. The report also flagged that the Notary's seal and signature appeared in an unusual manner. The signature of the Notary was in Tamil across all vouchers, raising questions about the mechanical or bulk attestation of these documents.

5.5.It is further submitted that the petitioner had been given full opportunity to submit his defence and, in fact, he had stated during enquiry that he did not require any additional materials. Therefore, the present claim of non-supply of documents is an afterthought.

5.6.With regard to differential treatment, it is pointed out that the earlier Overseer, N.Natarajan, was also penalised vide G.O.(D)No.152, Rural Development and Panchayat Raj Department, dated 20.06.2019, by way of a pension cut and recovery from DCRG. The BDO was not proceeded against since her involvement was ruled out after scrutiny. Therefore, he prayed for dismissal.

6.This Court considered the rival submissions made on either side and perused the materials placed on record.

7.The Indira Awas Yojana (IAY) Scheme, later subsumed under the Pradhan Mantri Awaas Yojana – Gramin (PMAY-G), is among the most socially significant welfare schemes conceived by the Union Government. Its purpose is to provide secure and dignified shelter to the poorest rural families, many of whom have lived in huts, temporary structures, or open conditions for generations. The scheme is as much about human dignity as it is about physical shelter.

8.The scheme is backed by institutional safeguards and monitoring mechanisms. Officials at the District, Block, and Panchayat levels are charged with not merely releasing funds, but ensuring that such funds translate into durable housing for the intended families. In this framework, the role of Union Overseer is not ceremonial — it is central to site inspection, progress reporting, and technical validation.

9.From the materials on record and the applicable rules, it is evident that the petitioner was not a passive functionary. He was formally appointed as the Supervising Authority for the IAY works in Kenjampatti Village by proceedings dated 13.11.2009. As per Rule 5 of the Tamil Nadu Panchayats (Preparation of Plans and Estimates for Works and Mode and Conditions of Contracts) Rules, 2007, as amended by G.O.Ms.No.132, Rural Development and Panchayat Raj Department, dated 04.08.2008, the Union Overseer is the Measuring Officer for all works valued below Rs.1 lakh — which squarely includes the housing units sanctioned under IAY at Rs.55,000/- per unit. Furthermore, the insertion of Rule 5A via G.O.Ms.No. 111, Rural Development and Panchayat Raj Department, dated 21.08.2018, reinforces this responsibility, explicitly designating the Union Overseer as the Measuring Officer for all housing works under Central and State Government schemes, regardless of value. These rules reflect the clear legislative and administrative intention that field-level technical staff like the petitioner are not mere executors of orders, but are entrusted with a statutory role of independent verification and vigilance. The petitioner, having visited the work sites multiple times, cannot disclaim knowledge of the ground realities.

10.It is disturbing that such a visionary scheme has been allowed to be derailed due to lapses at the field level. From the records, it is evident that the petitioner had inspected the sites and remained functionally involved. His duties included not just obeying work orders, but raising red flags when irregularities were noticed — especially in a scheme designed for the most vulnerable section of society.

11.The Audit Report dated 14.08.2012, though not subjected to cross-examination of its author, is corroborated by physical non-existence or substandard quality of houses. The claim that the BDO's field report absolves the petitioner is also misplaced, inasmuch as even that report indicates that only two of the seven houses were occupied by the intended beneficiaries.

12.The petitioner's allegation that he was not provided with supporting documents during the enquiry does not merit acceptance. The records clearly disclose that, during the course of the enquiry proceedings, the petitioner was expressly asked whether he desired to peruse any documents related to the charge. He unequivocally replied in the negative. Having consciously waived his right to seek further materials at the relevant stage, he cannot now turn around and allege denial of natural justice. The procedural fairness was duly established, and the present contention appears to be an afterthought raised for the first time in this writ proceedings.

13.The punishment imposed is a minor penalty under Rule 8 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955. Considering the gravity of the offence — misappropriation of public funds under a flagship welfare scheme — the penalty of one increment cut with cumulative effect, and 50% recovery, cannot be said to be disproportionate. The co-delinquent Overseer was also penalised appropriately, and hence, the plea of selective targeting does not hold water.

14.In Re ***State of Rajasthan and Others v. Heem Singh*** [**2021 (2) CTC 332**], the Hon'ble Supreme Court has discussed about the scope of judicial review in disciplinary proceedings as under:-

> *"33. In exercising judicial review in disciplinary matters, there are two ends of the spectrum. The first embodies a rule of restraint. The second defines when interference is permissible. The rule of restraint constricts the ambit of judicial review. This is for a valid reason. The determination of whether a misconduct has been committed lies primarily within the domain of the disciplinary authority. The judge does not assume the mantle of the disciplinary authority. Nor does the judge wear the hat of an employer. Deference to a finding of fact by the disciplinary authority is a recognition of the idea that it is the employer who is responsible for the efficient conduct of their service. Disciplinary enquiries have to abide by the rules of natural justice. But they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is hence not the strict standard which governs a criminal trial, of proof beyond reasonable doubt, but a civil standard governed by a preponderance of probabilities. Within the rule of preponderance, there are varying approaches based on context and subject. The first end of the spectrum is founded on deference and autonomy – deference to the position of the disciplinary authority as a*

fact finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact. Proportionality is an entrenched feature of our jurisprudence. Service jurisprudence has recognized it for long years in allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the evidence or misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores which have been termed as the two ends of the spectrum. Judges do not rest with a mere recitation of the hands-off mantra when they exercise judicial review. To determine whether the finding in a disciplinary enquiry is based on some evidence an initial or threshold level of scrutiny is undertaken. That is to satisfy the conscience of the court that there is some evidence to support the charge of misconduct and to guard against perversity. But this does not allow the court to re-appreciate evidentiary findings in a disciplinary enquiry or to substitute a view which appears to the judge to be more appropriate. To do so would offend the first principle which has been outlined above. The ultimate guide is the exercise of robust common sense without which the judges' craft is in vain."

15.The scope of judicial review in matters relating to disciplinary proceedings is very limited. It is meant to ascertain as to whether due process was followed and whether a fair opportunity was accorded to the employee concerned. The power of Courts is limited to reviewing the decision making process, rather than the merits of the decision itself. This is to ensure fairness in treatment and not the fairness of the conclusion. The Courts should not interfere with the findings of the fact arrived at in the departmental proceedings, except in cases of mala fide or perversity.

16.In the case on hand, this Court finds no infirmity in the conduct of the disciplinary proceedings. There has been no violation of principles of natural justice or the applicable rules.

17.When schemes intended for the upliftment of the most deprived are mismanaged or abused, it is not merely a financial issue — it becomes a question of public trust and the moral responsibility of governance. The findings of the Enquiry Officer are based on materials and cannot be termed perverse or arbitrary. Therefore, this Court is not inclined to entertain this writ petition.

Accordingly, this writ petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No **12.11.2024**
NCC : Yes / No
Internet : Yes
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To

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B.PUGALENDHI, J.

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