BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A(MD)No.872 of 2024
and
C.M.P(MD)No.6450 of 2024

1. The Government of Tamilnadu,
Represented by its Additional
Chief Secretary to the Government,
Commercial Taxes and Registration Department,
Secretariat,
Fort St.George,
Chennai.

2. The Inspector General of Registration,
Chennai - 28.

3. The District Registrar,
Marthandam. ...Petitioners/Appellants

Vs

T.Alfred ... Respondent

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to prefer this

Memorandum of Grounds of Writ Appeal against the order passed by this Court in W.P.(MD) No.10562 of 2017, dated 01.10.2021.

For Appellants	: Mr.R.Ragavendran Government Advocate
For Respondent	: Mr.N.Dilip Kumar

JUDGMENT

[Judgment of the Court was made by R.SURESH KUMAR, J.)

Against the respondent, there had been a disciplinary proceedings, where two charges have been framed, enquiry was conducted, enquiry officer has found that both the charges were proven. After giving reasonable opportunity at both stages, the disciplinary authority has come to the conclusion that for the said two proven charges, punishment has to be imposed. Therefore, the penalty of stoppage of increment for the period of two years with cumulative effect was the penalty imposed against the respondent. Challenging the same, the respondent has filed a writ petition in W.P(MD)No.10562 of 2017. The Writ Court by order, dated 01.10.2021, has modified the punishment into stoppage of increment for two years without cumulative effect. Aggrieved over the same, the present Appeal has been directed.

2.Heard Mr.R.Ragavendran, learned Government Advocate appearing for the Appellants and Mr.N.Dilip Kumar, learned Counsel appearing for the respondent.

3.We have gone through the charges that have been framed against the delinquent. Insofar as the second charge is concerned, we do feel that insofar as the said charge has been framed against the respondent/delinquent is concerned, there has been a justification on the part of the delinquent and if it is accepted, it cannot be stated that the said charge has been proven. However, insofar as the first charge is concerned, the amount that has been collected on the particular day was Rs.20,870/- and at the time of inspection only a sum of Rs.10,870/- was found and the remaining Rs.10.000/- had been credited only on the third day.

4.For such lapse on the part of the delinquent, the learned Counsel for the respondent/writ petitioner would give explanation that he was only working as a Record Clerk. Therefore, the entire responsibility cannot be placed on his shoulder. Therefore, the Sub-Registrar shall be the authority to maintain the account and he should have been the co-delinquent.

5.Even though the said defence had been taken by the respondent through the learned Counsel, we do not propose to accept the same for the simple reason that the delinquent alone was handling the cash box and this position has not been contravened and moreover, if he had no connection whatsoever with the money, he would not have credited on the third day. Therefore, the first charge is concerned, the charge has been proved.

6.Now, for the said proven charge, whether the punishment imposed by the disciplinary authority would be a proportionate punishment is the next question. In this context, the Courts have taken the consistent view that unless the punishment awarded by the disciplinary authority shocks the conscience of the Court normally, the Court would not interfere with the proportionality of the punishment.

7.Here, in the case on hand, more than one charge since has been framed and according to the enquiry officer, both the charges have been proved, based on which, such a punishment since had been imposed by the disciplinary authority, where on perusal since we find that only the first charge which we have stated hereinabove alone has been proved. Insofar as the next charge is concerned, the explanation was given by the delinquent, and this explanation also has been found in the order impugned and the punishment of stoppage of increment for two years with cumulative effect certainly would have been the punishment for all proven charges.

8.Had there been the first charge alone proved, the disciplinary authority definitely would not have imposed this punishment certainly and reduced punishment would have been inflicted. Therefore, drawing analogy from these factual matrix, we do feel that insofar as the punishment of stoppage of increment for two years with cumulative effect is concerned, it may not be proportionate for the proven charges. Therefore, this Court is inclined to modify the said punishment.

9.Though the learned Judge also has modified the punishment into stoppage of increment for two years without cumulative effect, that conclusion reached by the learned Judge is to be justified by the reasons, which we have added in our order. Therefore, the following orders are passed in this Appeal:

> That the punishment awarded against the respondent/delinquent of stoppage of increment for two years with cumulative effect can be modified into stoppage of increment for two years without cumulative effect. To that extent, the conclusion that has been given by the learned Judge also for the reasons which we have discussed hereinabove, is modified. Therefore with these modified punishment, the order passed by the learned Judge is to be affirmed. Accordingly, this Appeal has to be rejected as devoid of merits.

10. Hence, this Writ Appeal is dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[R.S.K.,J.] [G.A.M.,J.]
19.06.2024

NCC : Yes / No
Index : Yes / No
LR

To

1. The Additional Chief Secretary to the Government,
   Commercial Taxes and Registration Department,
   Secretariat,
   Fort St.George,
   Chennai.

2. The Inspector General of Registration,
   Chennai - 28.

3. The District Registrar,
   Marthandam.

R.SURESH KUMAR,J.
and
G.ARUL MURUGAN,J.

LR

ORDER MADE IN
W.A(MD)No.872 of 2024

DATED : 19.06.2024