



WEB COPY



W.P.No.38500 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03-01-2025**

CORAM

THE HONOURABLE MR JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP NO. 38500 of 2024

AND WMP NO. 41709 OF 2024

M.Sangeetha

No 2/9, Kottakudi Village, Sivagangai 630 561

Petitioner

Vs

1.The Registrar General
High Court, Madras.

2.The District Sessions Judge
Sivagangai District

Respondents

Prayer:

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari calling for the files in relating to the impugned order in A. No 2022 / SHR.Admn dated 07.02.2022 passed by the 2nd respondent and consequently the impugned order in R.O.C. No 44183 / 2022/C1 / MB dated 12.07.2024 passed by the 1st respondent and quash the same.

For Petitioner : Mr.G.Mutharasu

For Respondents : Mr.Arun Anbumani



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ORDER

(Order of the Court was made by R.Suresh Kumar J.)

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This writ petition has been filed seeking for a writ of Certiorari calling for the records relating to the impugned order in A.No 2022/SHR.Admn dated 07.02.2022 passed by the 2nd respondent and the consequential impugned order in R.O.C.No.44183/2022/C1/MB dated 12.07.2024 passed by the 1st respondent and to quash the same.

2. The writ petitioner was formerly Head Clerk at Subordinate Court at Devakottai now working as Head Clerk in Special Court for trial of Cases under the Prevention of Corruption Act, Sivagangai. Based on a departmental proceedings, five charges were framed against her. After getting explanation, not satisfied with the same, the disciplinary authority proceeded to initiate disciplinary proceedings by conducting an enquiry and an enquiry officer was appointed. All the five charges, according to the enquiry officer, have been proved. Therefore, the disciplinary authority has ultimately imposed the punishment of withholding two increments with cumulative effect by order dated 07.02.2022.

3. As against the said order, the writ petitioner has preferred an appeal to the first respondent, who also, having considered the appeal, has confirmed the punishment imposed by the disciplinary authority by rejecting the appeal through



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the order dated 12.07.2024. Therefore, challenging both the orders, the present writ petition has been filed.

4. Heard Mr.G.Mutharasu, learned counsel for the petitioner and Mr.Arun Anbumani, learned counsel for the respondents.

5. Insofar as the five charges that have been framed against the petitioner is concerned, the charge Nos.1 to 4 relates to the allegations that the writ petitioner, at the time of filing the Income Tax Returns in the year 2018-19 has not properly filed the accounts, as in some heads certain payments like surrender leave salary were omitted to be taken into consideration and under one head, instead of deducting only Rs.75,000/- under Section 80U of the Income Tax Act, a sum of Rs.1,00,000/- was deducted. Like that, charges 1 to 4 goes on.

6. These charges, at the threshold we can say, are not related to duty or the official functioning of the delinquent. If at all any provisions of the Income Tax Act are violated, the Income Tax authorities would take care of it under the provisions of the Income Tax Act.



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7. Coming to the fifth charge, it relates to the housing loan availed by the petitioner, where there has been no permission obtained by her by making proper application to the sanctioning authority. Though in this case it is contended by the learned counsel for the petitioner that the application has been given to the P.A to the Principal District Judge, learned counsel for the respondents has made it very clear that the application has been made to the P.A.to the Principal District Judge only with regard to the concurrence for deducting amount from the salary for the housing loan advance.

8. However, as per the relevant Rules, the writ petitioner has not obtained prior permission for availing a loan for purchasing immovable property. This violation goes against Rule 7(1)(b) of the Tamil Nadu Government Servants Conduct Rules. Therefore, insofar as the fifth charge is concerned, it has been proved, for which we are of the opinion that the writ petitioner is liable to be punished.

9. Now, we come to the proportionality of the punishment. Since the fifth charge alone has been proved and other four charges are not related to the official duty of the petitioner, we feel that the said punishment of withholding of two increments with cumulative effect is disproportionate to the proved charge.



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10. Normally this Court would not interfere with the proportionality of the punishment unless it shocks the conscience of the Court. This position is well settled. However, in the instant case, there can be no doubt that the proved charge of not obtaining prior permission for availing housing loan is a serious violation and that can never be condoned, for which the writ petitioner is liable to be punished. However, the proportionality of the punishment has to be interfered with. Therefore, we feel that in the circumstances of the present case, the punishment of withholding of two increments with cumulative effect can be modified into a punishment of withholding of one increment without cumulative effect, which would be a proper punishment for the fifth charge, which alone has been proved.

11. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order:

“The impugned order in A.No...2022/Shr.Admin dated 07.02.2022 passed by the 2nd respondent and the consequential impugned order in R.O.C.No.44183/2022/C1/MB dated 12.07.2024 is modified to the following effect that the punishment imposed by the disciplinary authority withholding two increments with cumulative effect is modified into withholding of one increment without cumulative effect.”



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12. With the above modification, the writ petition is disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

(R.SURESH KUMAR J.) (C.SARAVANAN J.)
03-01-2025

Index : Yes/No

NCS : Yes/No

KST

To

- 1.The Registrar General
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