
(2006) 02 MAD CK 0107
In the Madras High Court
Case No : Writ petition No. 26872 of 2005

A. Arockiam

APPELLANT

Vs

Director of Elementary Education

RESPONDENT

Date of Decision : 16-02-2006

Acts Referred:

Tamil Nadu Government Servants Conduct Rules, 1973 — Rule 12, 12(1), 20(1), 20(3)

Citation : (2006) 02 MAD CK 0107

Hon'ble Judges : N. Paul Vasanthakumar, J

Bench : Single Bench

Advocate : C. Selvaraju for S. Mani, for the Appellant; D. Malarvizhi, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

N. Paul Vasanthakumar, J.—In this writ petition, petitioner seeks to quash the order of the respondent dated 25.3.2003 imposing punishment of stoppage of increment for two years with cumulative effect.

2. The brief facts of the case are that the petitioner was initially appointed as Secondary Grade Teacher in the year 1989 and promoted as Headmaster of Middle School on 1.7.1997. He was further promoted as Additional Assistant Elementary Educational Officer on 24.8.2000. While he was working in the said capacity at Madurai East Panchayat Union, he was placed under suspension on 6.3.2002 on three charges viz., (i) In the Meeting held on 19.1.2002, petitioner criticised the Government and thereby violated Rule 12(1) of the Tamil Nadu Government Servants Conduct Rules; (ii) Unnecessarily directed teachers belonging to other Union to visit his office and falsely implicated the Panchayat Union Primary School teacher, namely, P. Velusamy, and thereby given disrespect to his post and the same is in violation of Rule 20(3)(i) of the Tamil Nadu Government Servants Conduct Rules; and (iii) Retirement benefits and pension proposals in respect of the Head Master of Chinnamangalam Panchayat Union Elementary School was not sent in time though he was to retire on 31.3.2002

A.N., and not sanctioned arrears of incentive increment to one Charles Immanuel and thereby the petitioner is guilty of dereliction of duty and violated Rule 20(1) of the Tamil Nadu Government Servants' Conduct Rules. In respect of the above charges, an enquiry was conducted and the charges were held to be proved, pursuant to which the above mentioned punishment was imposed on the petitioner.

3. In the counter affidavit the respondent has stated that the petitioner criticised the Government in the staff meeting held on 19.1.2002 and therefore charge No. 1 is proved and in respect of second charge, petitioner unnecessarily called the lady teachers and raised false allegations against the said teacher and thus attracted second charge and in respect of the third charge, there is dereliction of duty since the petitioner delayed payment of dues to the teachers referred in the charge. It is further stated that only after due enquiry the charges were held to be proved and ultimately punishment was imposed, which is perfectly in order.

4. The learned counsel for the petitioner submitted that in the staff meeting said to have taken place on 19.1.2002, about 86 teachers have participated and it was not a public meeting or public utterance and hence the allegation that the petitioner criticised the Government in the public place is not made out and Rule 12 of the Conduct Rules is not at all attracted. The second contention raised by the learned counsel is that the petitioner framed specific charges against Velusamy for dereliction of duty and the same cannot be treated as a delinquency. As far as the second limb of the charge is concerned, no lady teacher was invited and no one has given any complaint at any point of time. So far as the third charge with regard to settlement of retirement benefits to one Lakshmanan is concerned, the learned counsel submitted that the amounts could not be settled for want of regularisation of the period of his suspension from 29.4.1993 to 22.7.1993 as the punishment of stoppage of increment for three years without cumulative effect was imposed on him and when he was asked to give leave letter to which he is eligible, he refused to give and ultimately the leave was regularised as leave on loss of pay by the District Elementary Educational Officer and later on the amounts were settled and this was administrative delay in sanctioning of incentive increment to Charles Immanuel and therefore the petitioner is not at fault for the said belated payment.

5. I have heard the submissions made by the learned counsel appearing for the petitioner as well as the learned Government Advocate.

6. The point for consideration is whether the punishment imposed on the petitioner for the charges levelled against him are sustainable.

7. As contended by the learned counsel for the petitioner, even assuming that the alleged criticism of the Government by the petitioner is taken as proved, the same was in the staff meeting and hence it cannot be treated as public criticism attracting violation of Rule 12 of the Tamil Nadu Government Servants Conduct Rules. Therefore, the first charge against the petitioner is baseless and no

punishment could be imposed in so far as the first charge is concerned. With regard to the second charge, only part of the charge can be taken as proved. So far as the third charge is concerned, the petitioner properly explained the reasons for the delay in settling the retirement benefits to the Head Master of Chinnamangalam Panchayat Union Elementary School and also the delay in sanctioning arrears of incentive increment for B.Ed Degree to one Charles Immanuel. The explanation submitted by the petitioner in this regard are convincing and the finding given that the said charge is proved, is on no evidence. In the light of the above findings, this Court feels that the punishment imposed on the petitioner withholding increment for two years with cumulative effect is on the higher side, particularly when the charges 1 and 3 are not proved.

8. The learned counsel appearing for the petitioner cited a decision of the Supreme Court reported in AIR 2003 SCW 4222 (Dev Singh v. Punjab Tourism Development Corporation Ltd. and Anr.) wherein the Apex Court held that if the punishment imposed by the disciplinary authority or the appellate authority is disproportionate, the Court can direct the authority to reconsider the penalty.

9. Following the said decision of the Supreme Court, the impugned order of punishment dated 25.3.2003 passed by the respondent is set aside on the ground that the said punishment is disproportionate to the gravity of the proved charge, namely charge No. 2. The respondent is directed to impose lesser punishment considering the gravity of the proved 2nd charge within a period of eight weeks from the date of receipt of copy of this order.

The writ petition is allowed to the extent indicated above. No costs.