(2001) 02 MAD CK 0041

In the Madras High Court

Case No : Writ Petition No. 14107 of 1994 and W.M.P. No. 21314 of 1994

Ghulam Ghouse M. APPELLANT

Vs

Vice Chancellor, Madurai Kamaraj University and Another RESPONDENT

Date of Decision : 02-02-2001

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2001) 2 LLJ 772

Hon'ble Judges : V.S. Sirpurkar, J

Bench : Single Bench

Advocate : V.R. Venkatesan, for the Appellant; S. Jayaraman, for the Respondent

Final Decision : Dismissed

Judgement

V.S. Sirpurkar, J.—The petitioner herein is challenging the punishment awarded to him after a departmental enquiry. The said punishment

was to cut off 7-1/2% of his pension. The petitioner, at the relevant time was working as a Deputy Registrar (Finance), Madurai Kamaraj

University. On account of the indiscriminate expenditure having been made in one of the seminars held and on the basis of the report dated April

25, 1986 and May 31, 1986, in the preliminary enquiry, it was found that the explanation of the petitioner was unsatisfactory and therefore, a

charge sheet came to be served on him.

Though initially 11 charges were levelled against him and five charges out of these came to be dropped. During the enquiry which ensued, he was

found guilty of all the charges. The charges for which he is found guilty are as follows:

Charge No. 2

It has been reported that there had been indiscriminate spending of money of the Institution in the conduct of the contact seminars. The Deputy

Directors who had been incharge of the seminars, have given vouchers which are found to be not correct on the face of them. Large amounts are

said to have been paid for hiring chairs, tube-lights and for arranging the furniture and the vouchers produced in support of the same do not infuse

confidence. Voucher Nos. 3, 96, 97 and 99 do not bear the signature of the persons who are said to have received the amounts. Voucher No.

100 is stated to be for the supply of tube- lights by Sri Meenakshi Electricals, Madurai and a sum of Rs. 945/- had been paid as per details. It is

not known (sic) how, for the seminars held in Trichy, tube-lights were supplied by Electric company at Madurai. Trichy is equally big town like

Madurai where there should be several electrical companies. The very existence of the company is very doubtful. The vouchers showing the name

of Sri Meenakshi Electricals appear to be fabricated for the purpose of making claims. This is also a grave misconduct and serious in nature. You

had not taken proper steps to verify the expenses incurred for the contact seminars and control the expenses.

Charge No. 3

Voucher No. 101 relates to hire charges for chairs and it shows Rs.720/- was paid as hire charges and Rs.480/- was paid as cartage. Both are

excessive. Voucher No. 111 mentions that Rs. 16/- was paid for cycle hire charges and it is not known who used the cycle and for what purposes

cycle was hired. You have not verified the vouchers at the time of paying it. Voucher No. 213 relates to the payment of remuneration charges to

outside talents. Only 8 lecturers have signed this and the rest numbering 50 have not signed. These acts are a grave irregularity and misconduct and

dereliction in duties, You have not taken proper steps to verify the expenses incurred for the contact seminars.

Charge No. 4

In the file relating to contact seminar held at Thirunelveli on September 29, 1984 and September 30, 1984, it is found that a sum of Rs. 825/- had

been paid towards hire charges, for the tube- lights, service charges for 3 days Rs. 80/- and cartage for Rs. 40/-and Rs. 700/- was paid to

Meenakshi Electricals, Madurai for a generator. There was no necessity for a generator to be taken and that too being taken all the way from

Madurai to Thirunelveli. These expenditures do not appear to be true. Thirunelveli is equally a big town like Madurai where there should be a

number of electrical companies. Meenakshi Electricals is said to have supplied tube-lights at Trichy (reference to charge No. 2) and Thirunelveli for

some other seminars also. The very existence of the company is very doubtful. The vouchers showing the name of Sri Meenakshi Electrical appear

to be fabricated for the purpose of making claims. It is found that Gopalan the clerk in the establishment Section, ICCX & CE is closely connected

with the vouchers passed by this company. This is also a serious and grave misconduct. You had not taken proper steps to verify the expenses

incurred for contact seminars and the vouchers relating thereto and control the expenses.

Charge No. 5

In respect of the contact seminars held at Trichy on January 5, 1985 and January 6, 1985 vouchers are not numbered. Meenakshi Electricals has

passed vouchers for Rs. 901/- under date January 6, 1985 for the supply of tube-lights. The seminar was held at Trichy. But the electrical

company is said to be in Madurai. Rs. 1,110/- is said to have been paid as hire charges of chairs. Both these charges are unconscionable. The very

existence of the company is doubtful. The vouchers showing the name of Sri Meenakshi Electricals appear to be fabricated for the purpose of

making claims. You have not taken any steps to verity the correctness or otherwise of the expenses.

Charge No. 7

In the matter of printing of lessons, no procedures had been followed. Some of the printers had been receiving preferential treatment. Bulk and

profitable orders were given to certain selected presses: The reason is stated to be that some of the staff members of ICC & CE are interested in

these presses.

1) In some cases the printing has been so carelessly done and without proper revision, clean copies had been printed (vide annexure No. 8, code

No. 223, lesson No. 3, M.Com., II year 1984-85) in the report of the Enquiry Officer.

2) In one case (M.Com, II year code No. 217, lesson No. 5) the errata runs to

closely printed two pages (vide annexures No. 5) in the report of

the Enquiry Officer.

3) In another printing had been done even without a strike order having been passed by the concerned official (vide annexure No. 9) in the report

of the Enquiry Officer.

4) In another case, code No. 111, lessons 16 and 17 B.Com. III year 1985-86 (annexure No. 10) in the report of the Enquiry Officer pages 24

to 32 and pages 65 to 70 are missing.

The main erring press seem to be Sri Meenakshi Printers. It is said that Thiru Sundararaman, Cashier ICC & CE has vested interest with this

press. The erring presses were not pulled up. This responsibility lies with you. These misconducts are grave and very serious in its nature as heavy

loss had been occasioned to the University. You are liable for loss occasioned and the wrong printing of lessons.

Charge No. 10

The demand collection and balance statement now prepared and added as annexure No. 23 to the report would show that there is a balance of

more than Rs. 51 lakhs to be collected from the students. This is under further scrutiny. It is expected that the total arrears may exceed one crore

and eleven lakhs of rupees. The huge arrears shows that lessons were despatched to students who had not paid their tuition fees. You are

responsible for this sorry state of affairs and consequential loss to the ICC & CE. These grave and serious misconducts had affected the financial

position of the Institute and a fair name and reputation of the institution. You are liable for this charge as the Deputy Registrar(F) of the Institution"".

All these were done somewhere in the year 1986. The petitioner, after perusing the interim report as also the final report (there is an endorsement

to that effect dated October 27, 1986) offered his explanation regarding the punishment proposed against him by notice dated August 10, 1989.

That explanation was found wholly insufficient and he has been awarded punishment which has been referred to earlier in this judgment.

2. In support of his petition, learned counsel firstly submits that the enquiry report, and more particularly the final enquiry report, was not furnished

to him, the copy of which was also not given to him. It is clear from endorsement dated October 27, 1986 that the petitioner actually had perused the said final report. It is only said in his letter dated October 23, 1986 ""if possible I may be supplied a copy of the same"". It is not his case that he

is yet to see the said reports or was not given opportunity to go through those reports. Therefore, it cannot be now said, at this juncture, that some

prejudice was caused to him by non-supply of the report. The report was undoubtedly seen, perused, read by him and therefore, there is no

question of supplying the copy of which he did not insist upon.

3. Learned counsel secondly says that all those persons who were in fact mainly guilty of the offence were let off and he was given an unduly harsh

punishment of cutting his pension by 71/2%. For example, learned counsel referred the case of Dr. Rangasamy. Learned counsel for the University

pointed out that Dr. Rangasamy was not let off, but was censured. He was the Head of the Department and it was under his stewardship that the

said seminar was being conducted. There were number of illegalities found during that seminar; more particularly regarding the unwarranted

expenditure. It was also found that the receipts and vouchers which were filed in support of the expenditure were either not genuine or were

fanciful. It is pointed out by the learned counsel for the University that in Charge No. 2 itself, it was stated that voucher Nos. 2, 96, 97 & 99 did

not bear the signature of the persons who were said to have received the amounts. Voucher No. 100 was stated to be for the supply of tube-lights

by Sri Meenakshi Electricals, Madurai and a sum of Rs.945/- was purported to have been paid. It was specified in that charge that if the seminar

was held at Trichy, how was it that tube-lights were brought from Madurai. Similarly, learned counsel for the University drew my attention towards

other aspects covered in charge Nos. 3, 4 and 5 where even the genuineness of some of the vouchers have been viewed with suspicion and

specific charges have been levelled. The seminar accounts show that some cycles were hired for the seminar. There was absolutely no reason for

hiring the cycles for holding the seminar at the place like Trichy. Learned counsel for the University also draws my attention towards a fact that a

generator was said to have been brought from Madurai to Thirunelveli for conducting the seminar there. The authorities were at a loss to know as

to why the generator should have been procured only from Madurai, especially when it is available in Thirunelveli, which itself is a District

Headquarter and a City in itself. Significantly enough, this generator was also supplied by the same Meenakshi Electricals, who had supplied the tube-lights. All these have been put specifically to the petitioner but, the petitioner had not given any replies. On the general he said that it was not his duty to examine the genuineness of the receipts though he was a Deputy Registrar (Finance). From this, learned counsel for the University says that this was the primary duty of the Deputy Registrar (Finance) and it was he, who was expected to be vigilant in respect of the expenditures made on the seminar held by the University and for that, the person like Dr. Rangasamy could not be held responsible, though Dr. Rangasamy has actually been censured. If this is the case, then the petitioner cannot complain that Dr. Rangasamy, the Head, under whose stewardship the seminars were conducted should have been dealt with leniently as compared to him. It is found from the answers given by the delinquent that the idea is more to avoid stating specifically about the charges, though charges were very specifically framed. When we see the explanation of the delinquent to charge Nos. 2 to 5 that round about explanation has been given without answering any specific charge and all these go to suggest that there was very little in defence to the charges and in fact, the delinquent had actually avoided to give answers. Similar is the story regarding other charges which have been held to be proved. Be that as it may, the delinquent, before this Court under its jurisdiction under Article 226 of the Constitution of India, can enter into the area of facts and to examine as to whether the charges have been proved or not. All that can be said is that if there was incriminating material on record, then the jurisdiction of this Court cannot be used to go into the finding of facts on appreciation of evidence and for that reason, I will refuse to go into the finding of facts. Be that as it may, once the petitioner has been found guilty for the charges of serious nature regarding the financial mis-management or suspicious financial transactions, it cannot be now argued that the charges were not proved.

4. Even in the petition, there is no reason given nor any material brought out to suggest that the finding given by the Enquiry Officer, which enquiry was held by a retired District Judge, was in any way erroneous.

5. Learned counsel for the University, 5 thereafter, pointed out that though the

enquiry was completed way back in 1986 and though the petitioner

was given punishment in September 1989, this petition has been filed for the first time in June 1994 i.e., after full five years. Learned counsel for the

petitioner tried to say that in paragraph 16 of the affidavit, he has explained the said laches. Unfortunately beyond sending representations after

representations nothing seems to have been done by the petitioner. Merely sending representations of the repeated nature would not save the

petitioner of laches. The petition is clearly and hopelessly belated, that apart even on merits the petition has no force.

6. It is then tried to be submitted by the learned counsel that the petitioner had retired way back in 1989 and suffered cut in pension for 13 long

years and that should be the enough punishment. According to me, the punishment awarded was on the lenient side in that the petitioner was

allowed to be retired and atleast earn pension. The petitioner was incharge of the finances of the University, as such was in a very responsible post.

The manner in which the petitioner conducted himself speaks for itself. For these reasons, even this plea cannot be accepted. The petition has no

merits and it is dismissed. But under the circumstances without any orders as to the costs. Consequently W.M.P. No. 21314 of 1994 is also

dismissed.

