
(2012) 04 MAD CK 0080

In the Madras High Court

Case No : Writ Petition No. 2072 of 2008 and M.P. No's. 1 of 2008 and 1 of 2009

L. Jayaraman

APPELLANT

Vs

The State of Tamilnadu

RESPONDENT

Date of Decision : 03-04-2012

Acts Referred:

Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 — Rule 17, 9A

Citation : (2012) 04 MAD CK 0080

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : V. Anand, for the Appellant; M.C. Swamy, Spl. G.P., for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru

1. The petitioner, who was working as an Assistant in the District Employment Office at Cuddalore, was charge sheeted along with District Employment Officer and Junior Employment Officer, Tiruvannamalai. Since the misconduct committed by all the three of them were in relation to the same incident, a common enquiry was conducted in terms of Rule 9(A) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules by the order of the State Government in G.O.(D) No. 310 Labour and Employment Department dated 13.04.2006. The charge against the petitioner was that while typing sponsorship list, as against the name of one G.Jothilakshmi, while copying from the index card, the petitioner instead of indicating that she belong to Backward community as her caste was Vaniyar, typed it as "vanniyar" Most Backward Community. His explanation was that he has read the word as "vanniyar" instead of "vaniyar". He was misled because he was given a dummy card for typing. Charges were framed under Rule 17(b) of the Tamil Nadu Civil Services (D & A) Rules, followed by an enquiry. Ultimately, the petitioner was given punishment of stoppage of increment for a period of three years without cumulative effect by the order of the State Government in

G.O(D)No.766 Labour and Employment department, dated 25.10.2007.

2. It also transpires the Junior Employment Officer V. Ramanathan and the District Employment Officer P.Ravindran were also imposed with penalty in a similar manner. However, the petitioner alone has come forward with the present writ petition.

3. The contention raised by the petitioner was two fold; that there is possibility of reading the word "vaniyar" as "vanniyar" and he did not note the tamil writing and the index card was not shown to him. The punishment given to him was disproportionate as it has to be verified by other two officers and hence, the responsibility cannot be fixed on him.

4. With reference to the mistake found on account of dummy card being given, in paragraph 14 of the counter, it was stated that the petitioner was given original index card pertaining to G.Jothilakshmi which was available on 27.02.2000 and therefore, there was no necessity to grant any dummy card for typing. In paragraph 14 of the counter, it was averred as follows:-

14. It is submitted that the inquiry report reveals that original index card pertaining to Tmt.G.Jothilakshmi which was available on 21.07.2000 and there arose no necessity to give dummy card for typing. The caste of Tmt.G.Jothilakshmi namely Vaniyar BC Community recorded in Tamil by Tmt.G.Jothilakshmi in the index card. The petitioner failed to note this aspect but wrongly typed as Vanniyar in the list sent to the employer. Thus the charges framed against him are held proved. The inquiry report revealed that the charges framed against Thiru P.Raveendran, District Employment Officer, Thiru V. Ramanathan then Junior Employment Officer, were also held proved. Thus the inquiry have been conducted in fair manner.

5. It was also found from the original card that the District Employment Officer P.Raveendran recorded the seniority of the Library Science qualification possessed by the candidate under column No. 13. Therefore, this defence pleaded by the petitioner that dummy card was given for typing was not acceptable.

6. The grounds raised by the petitioner were that the concerned officials who were in the employment exchange at Tiruvannamalai alone were responsible for preparing the list, the dummy card given to him was not produced during the enquiry and there is hardly any evidence on the side of the department and no official witness have been examined and the fixing of responsibility on the petitioner does not stand to any reason.

7. However, the nature of the charges namely that wrong noting of caste name can result in sponsoring a wrong candidate under the relevant roster point which can bring disrepute to the Government. The petitioner cannot minimise his role in typing wrong community name in the sponsorship application. When once charges are proved by reliable materials, the question of interfering with the

penalty, that too minor penalty will not arise.

8. Further, the Supreme Court vide its judgment in *Chairman and MD V.S.P. and Others Vs. Goparaju Sri Prabhakara Hari Babu*, has held that a well reasoned order of the disciplinary authority cannot be interfered with on the basis of sympathy or sentiment. Once procedural formalities are complied with by the authorities, the Courts should ordinarily not to disturb with the penalty. It is necessary to refer the following passages found in paragraphs 20 and 21, which are as follows:

20. The jurisdiction of the High Court in this regard is rather limited. Its power to interfere with disciplinary matters is circumscribed by well-known factors. It cannot set aside a well-reasoned order only on sympathy or sentiments. (See *Maruti Udyog Ltd. v. Ram Lal*; *State of Bihar v. Amrendra Kumar Mishra*; *SBI v. Mahatma Mishra*; *State of Karnataka v. Ameerbi*; *State of M.P. v. Sanjay Kumar Pathak* and *Uttar Haryana Bijli Vitran Nigam Ltd. v. Surji Dev* 7.)

21. Once it is found that all the procedural requirements have been complied with, the courts would not ordinarily interfere with the quantum of punishment imposed upon a delinquent employee. The superior courts only in some cases may invoke the doctrine of proportionality. If the decision of an employer is found to be within the legal parameters, the jurisdiction would ordinarily not be invoked when the misconduct stands proved. (See *Sangfroid Remedies Ltd. v. Union of India*.)

In the light of the above, there is no case made out. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.