
(1995) 07 MAD CK 0024
In the Madras High Court
Case No : W.A. No. 774 of 1995

P. Ravi

APPELLANT

Vs

Registrar and Another

RESPONDENT

Date of Decision : 27-07-1995

Acts Referred:

Constitution of India, 1950 — Article 311(2)
Industrial Disputes Act, 1947 — Section 11A
Tamil Nadu Civil Services (Classification, Control and Appeal) Rules, 1953 — Rule 19, 20

Citation : (1995) 2 CTC 462

Hon'ble Judges : Srinivasan, J;AR. Lakshmanan, J

Bench : Division Bench

Advocate : M.A. Sadanand, for the Appellant;

Final Decision : Dismissed

Judgement

Srinivasan, J.—The Only point urged before us is that the order of dismissal passed against the appellant is vitiated because of the failure of

the Authority to adhere to the provisions of Article 311(2) of the Constitution of India. It is submitted that after the enquiry was over, before

awarding punishment, the Disciplinary Authority had taken into account certain earlier proceedings in which the appellant was found guilty and

awarded punishment without framing a charge with regard to the same. The contention of learned counsel for the appellant is that unless the earlier

punishment is also made one of the charges and a part of the charge memo, the Disciplinary Authority is not entitled to take the same into account.

It is submitted by him that the Disciplinary Authority ought to have recorded evidence after issuing the charge memo to the appellant with regard to

the earlier punishments.

2. We are unable to accept this contention. In so far as the present enquiry is concerned, there is no dispute about the procedure adopted in the enquiry or the validity of the same. After the enquiry was over, when the Disciplinary Authority was going through the records, he found that there were some earlier disciplinary proceedings in which the appellant was found guilty and awarded punishment. Immediately, the Disciplinary Authority issued a memo to the appellant informing him that the earlier punishment will be taken into account while awarding punishment in the present proceedings and calling upon him to submit his explanation in that regard. The appellant sent a reply and that was considered by the Disciplinary Authority. The appellant did not challenge the correctness of the earlier records or the facts that he was punished in the earlier disciplinary proceedings. It is only after giving such an opportunity to the appellant, the Disciplinary Authority has taken into account the earlier proceedings for the purpose of awarding punishment to the appellant.

3. The next contention urged by learned counsel is that the punishment awarded is disproportionate to the misconduct of the appellant. We are unable to accept this contention. It is now proved that the appellant had not done the work of serving processes and he had also taken away the money entrusted to him for that purpose. He had not chosen to refund the amount entrusted to him for serving the processes. There is no dispute with regard to such charges. The Disciplinary Authority is, therefore, justified in awarding extreme punishment of dismissal against the appellant.

4. The third contention is that under Rule 8 of the Tamilnadu Civil Services (Classification, Control and Appeal) Rules, the penalty of dismissal can be imposed only for violation of Rule 19 of the Tamilnadu Government Servants' Conduct Rules 1973 and in the present case, the violation is of Rule 20 and not Rule 19. The relevant part of Rule 8 of the Tamilnadu Civil Services (Classification, Control and Appeal) Rules reads thus:

The penalties mentioned in items (vi), (vii) or (viii) as the case may be, shall be imposed on a Government Servant for the violation of Rule 19 of the Tamil Nadu Government Servants' Conduct Rules, 1973.

The Rule only says that if there is violation of Rule 19 of the Tamil Nadu Government Servants' Conduct Rules, it is mandatory for the authorities concerned to award the penalties mentioned in items (vi), (vii) or (viii). Item

(viii) deals with dismissal from civil service of the State Government.

The Rule does not say that in the case of violation of Rule 20, the penalty of dismissal cannot be imposed. That contention therefore fails.

5. Learned counsel submits that this Court should be lenient in the matter of punishment and consider the question of reducing the punishment

awarded to the appellant. Having regard to the facts found in the enquiry and the seriousness of the misconduct of the appellant, we do not think

that there is any justification to reduce the punishment. The appellant is not only guilty of dereliction of duty and gross negligence but also guilty of

misappropriation of public funds.

6. In the circumstances, there is no warrant to interfere with the orders of the learned single Judge. The Appeal is dismissed.