
(2010) 04 MAD CK 0218
In the Madras High Court
Case No : Writ Petition No. 895 of 2006

V. Rajagopal

APPELLANT

Vs

The District Collector

RESPONDENT

Date of Decision : 01-04-2010

Acts Referred:

Constitution of India, 1950 — Article 226

Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 — Rule 17, 8

Citation : (2010) 04 MAD CK 0218

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : R. Margabandhu, for the Appellant; N. Senthilkumar, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—The petitioner is working as Village Administrative Officer, Ladavaram village, Polur Taluk, Thiruvannamalai District. He filed O.A. No. 6667 of 2001 challenging the order passed by the District Collector, Thiruvannamalai dated 16.09.2001. By the impugned order, the District Collector imposed a penalty on the petitioner degrading his scale of pay to a lower stage for a period of five years. Though it was stated in the order that he can file an appeal to the Principal Commissioner and Commissioner for Revenue Administration, the petitioner chose to move the Tribunal. The Tribunal admitted the Original Application and granted an interim order staying the operation of the penalty imposed on the petitioner. Though an application was filed by the respondent to vacate the interim order in M.A. No. 8942 of 2001, for reason best known, the Tribunal did not take up the said application. The interim order came to be continued upto four weeks from 14.12.2001. On notice from the Tribunal, the respondent has filed a detailed reply affidavit dated 11.12.2001.

2. Even when the matter is pending before the Tribunal, the petitioner filed a Writ Petition before this Court in W.P. No. 38926 of 2005 seeking transfer of the

said Original Application to this Court. This Court by order dated 02.12.2005 directed the transfer of Original Application to this Court and also renumber as Writ Petition. Pursuant to the said direction, the matter was transmitted to this Court and renumbered as W.P. No. 895 of 2006.

3. It is seen from the records that the petitioner, who was a Village Administrative Officer recommended the case of one Salammal, W/o. late Govindasamy residing at 31/WIC, Kannan Street for old age pension. He did not verify that late Govindasamy was working as an Office Assistant and upon his death, Salammal was in receipt of family pension and she is also living in a tiled house in the same village. On account of his recommendation, the Government granted pension for Salammal in P. No. 8712.

4. Subsequently, on a complaint being made by the village public, action was initiated against the petitioner and a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules was framed on 25.10.2000. The two charges framed against the petitioner are improperly recommending pension for a widow, who is already having adequate income and that because of his recommending the Government paid Rs.200/- per month from June 2000 to August 2000 and there was a loss of Rs.600/-.

5. The defence taken by the petitioner was that he has recommended for various assistance programmes starting from 03.06.1999 and there may be some mistakes in one or two cases. With reference to loss, the petitioner stated that the amount has been recovered from the said widow and paid to the treasury.

6. A departmental enquiry was conducted against the petitioner and the petitioner admitted the charges. He also stated that it is the first time, he committed a mistake. The District Collector on considering the explanation given by the petitioner and also the Enquiry Report, held that when the petitioner recommended the case of Salammal, he cannot plead that it was a mistake. It must be stated that Salammal is a local resident and not a stranger. It is not difficult for a Village Administrative Officer to note that she is not a destitute and she is in receipt of a regular Government Pension. But however considering the genuineness of the petitioner, the authority imposed the punishment of reduction to a lower scale of pay for five years.

7. Mr. R. Margabandu, learned Counsel for the petitioner assailed the said order, made the following contentions:-

(i) The penalty of this nature is not contemplated under Rule 8(iv) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

(ii) The District Collector is the Appellate Authority and the competent authority is the District Revenue Officer and therefore the Appellate Authority ought not have passed the order.

(iii) Rule 29 of the Fundamental Rules provides that when a penalty of lower stage in time scale is imposed, the authority ordering such reduction should

specify the period for which it shall be effected and on restoration whether the period of reduction shall operate to postpone the future increments.

8. In the reply affidavit filed, the District Collector has stated that since disciplinary proceedings were initiated by the Tahsildar, who is holding an higher post, the District Collector is the competent authority for imposing the penalty. He also stated that it is not a case of reduction to a lower post, but it is only a reduction to lower scale of pay. Under Rule 8(iv) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, they are competent to impose the said penalty. On the question of non-availability of appellate authority, it is stated that already appeal is available to the Principal Commissioner and Commissioner of Revenue Administration and further Revision to the Secretary to Government, Revenue Administration and it is the petitioner who did not avail such remedies.

9. A perusal of Rule 8(iv) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules shows that the reduction to a lower stage in the time scale is also a penalty that can be imposed. The respondent is conscious of the fact that the petitioner is directly recruited to Village Administrative Officer post and there is no further post to which he can be demoted and hence he chose to impose the penalty of reduction to lower time scale of pay only.

10. With reference to Rule 29 of the Fundamental Rules, the District Collector is conscious of the Rule and he imposed the penalty of reduction to lower time scale of pay for a period of five years and therefore that rule is satisfied.

11. The next allegation is that the appellate authority has passed the order of punishment depriving the chances of the petitioner in filing an appeal. Already the respondent had stated that the petitioner never availed the appeal remedy to the Principal Commissioner and Commissioner for Revenue Administration and further Revision to the Government. Therefore, no grievance can be made. The Hon"ble Supreme Court in " Government of A.P. and Another Vs. N. Ramanaiah, had stated that there is no illegality in an appellate authority passing an order. In such circumstances, the aggrieved government servant can file a revision, failing which the judicial remedy under Article 226 of the Constitution will sufficiently safeguard his interest.

12. In the light of the above, the contentions made by the learned Counsel for the petitioner are misconceived and the Writ Petition is dismissed. No costs.