

SUPREME COURT OF INDIA

Secretary to Govt. of T.N.

Vs.

Thiru M. Sannasi

(G.B. Pattanaik and M.B. Shah JJ.)

20.09.2000

ORDER

1. This appeal is directed against the impugned order of the Tamil Nadu Administrative Tribunal (for short the Administrative Tribunal) interfering with an order of punishment inflicted upon the delinquent-respondent on finding him guilty of five sets of charges. The delinquent-respondent was the Block Development Officer (BDO) and he along with four others were served with five sets of charges which relate to creation of false and forged record, ultimately resulting in loss to the State Exchequer and the BDO was the officer who had the duty to pass the bills in question, prepared by the other delinquents. As the charges relate to corruption of the said officers, under the provisions of the Tamil Nadu Civil Services (Disciplinary Proceedings) Rules, 1955, the same were referred to the Tribunal under the aforesaid Rules for being inquired into and giving its finding on the charges. In accordance with the procedure for conducting the proceedings before the Tribunal, the Disciplinary Tribunal concluded the proceedings and found that the charges against all the four delinquents have been proved. On receipt of the findings of the Tribunal, the State Government consulted the Tamil Nadu Public Service Commission and ultimately imposed punishment of compulsory retirement against the respondent and two others whereas against the 4th delinquent, who had superannuated, inflicted the punishment of recovery of Rs. 100/- per month for one year from the pension amount. Against the said order of compulsory retirement, the respondent approached the Administrative Tribunal; constituted under the Administrative Tribunals Act of 1985 and the Tribunal, by the impugned order, having set aside the order of punishment, the State is in appeal before us.

2. The learned Counsel appearing for the State of Tamil Nadu contends that the impugned order of the Tribunal cannot be sustained inasmuch as the conclusion that the Disciplinary Tribunal has no jurisdiction to frame set of charges is contrary to the judgment of this Court in the case of Secretary to Government of T.N. v. D. Subramanyan Rajadevan . So far as the other ground on which the Tribunal interfered with the order of punishment, it is contended that in view of the nature of charges leveled against the officers concerned and in view of the findings of the Enquiry Tribunal after due inquiry, the Administrative Tribunal in the impugned order committed serious error by merely coming to the conclusion that the BDO, the respondent herein, had no role to play excepting the check of arithmetic calculations and pass the bills and, therefore, he could not have been punished for the charges which are stated to have been proved in course of inquiry before the Disciplinary Tribunal. According to the learned Counsel, the conclusion that to hold the BDO responsible, is totally unjustified, is a conclusion which is unsupportable in law and more so no such conclusion could be arrived at without having a look at the report or findings of the Disciplinary

Tribunal which the Disciplinary Tribunal is duty bound to submit under Rule 9 of the Tamil Nadu Civil Services (Disciplinary Proceedings) Rules, 1955 and which report has been served on the delinquent in accordance with Rule 10 thereof. The learned Counsel for the respondent, on the other hand, contended that the Administrative Tribunal having been satisfied on the basis of the duty of the BDO in relation to the impugned transactions and having held that the BDO cannot be fastened with the liability of the charges against him, the said order should not be interfered with by this Court.

3. In view of the rival submissions, the question that arises for consideration is whether the conclusion of the Administrative Tribunal in the impugned order can at all be sustained. The Tribunal is an institution created under the Act of 1985 and discharges the duties which were earlier being discharged by the High Court under Article 226 of the Constitution of India. The power of the Court or the Tribunal, as the case may be, to interfere with the findings of an inferior Tribunal is well settled by a catena of decisions of this Court and it is not necessary for us to reiterate the same. It is well settled that a finding of an inferior Tribunal can be interfered with if a superior forum comes to the conclusion either that the inferior Tribunal has allowed, inadmissible evidence, or has prevented the delinquent from adducing the admissible evidence or has based its conclusion on an erroneous view of law or that the conclusion is such which no reasonable man can come to on the existing material on record. It is therefore, necessary that to set aside any finding of the Tribunal the very foundation or the basis on which the Tribunal arrives at its conclusion must be looked into. It is unthinkable that the findings of guilt of 5 different charges arrived in course of inquiry, could be interfered with by the Administrative Tribunal even without looking at the said findings or report, solely on the basis that the BDO has no role other than the role of passing the bills and correcting arithmetical errors. In view of the nature of charges leveled against, as indicated in the very order of the Tribunal, the BDO who had the ultimate responsibility of passing the bills is as much responsible as the other officers who had prepared the bills or had given contracts to persons concerned or had supplied rice to different labourers, ultimate result of which was that the Government sustained the loss. In that view of the matter, the conclusion of the Administrative Tribunal and the final order setting aside the order of punishment inflicted upon by the State of Tamil Nadu is wholly erroneous and cannot be sustained. The learned Counsel, appearing for the respondent had prayed the matter should be remitted back to the Administrative Tribunal for reconsideration. But, we do not find any justification for allowing the said prayer at this length of time. In the premises as aforesaid, the impugned order of the Administrative Tribunal is set aside. This appeal is allowed. The order of the compulsory retirement of the respondent stands affirmed.