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Principal District Judge
Tiruchirappalli,
12-2-68

R.O.C.No. 812/2010/C1.

Sub: P.S. – T.N.B.S. – Salem District – Administrative Appeals –
Tmt. C. Elaveni, formerly Office Assistant, Judicial Magistrate Court
No.VI, Salem, now Office Assistant, Judicial Magistrate Court No.I,
Salem - Disciplinary Proceedings initiated under Rule 17(a) of Tamil Nadu
Civil Services (Discipline and Appeal) Rules – Order dated 12.7.2010 –
Fine of Rs.100/- imposed – Appeal preferred – Considered – Orders
passed – Appeal dismissed – Reg.

- Read 1. High Court's ROC.No. 2179/90/G3, dated 20.8.1992.
2. Memo dated 21.6.2010 issued by Judicial Magistrate No.VI, Salem.
3. Show Cause Notice dated 2.7.2010 issued by Judicial Magistrate
No.VI, Salem.
4. Explanation of the appellant dated 5.7.2010.
5. Order in D.No. 1031/2010, dated 12.7.2010 of Judicial Magistrate
No.VI, Salem.
6. Appeal petition of Tmt. C. Elaveni, forwarded to the High Court by
the Chief Judicial Magistrate, Salem in R.O.C.No. 5064/2010,
dated 16.9.2010.

ORDER :

“ During 17.6.2008 – 4.9.2010. Tmt. C. Elaveni, the appellant was working as
Office Assistant in the Court of the Judicial Magistrate No.VI, Salem. She was directed
to carry out her duties at the residence of the Officer.

2. Since on 21.6.2010, she had failed to report for duty at 8 a.m., already as
directed and attended duty only at about 10 a.m., under reference 2nd cited, Judicial
Magistrate No.VI, Salem issued her memo calling for her explanation within three days.
However, she did not give any explanation.

3. In the circumstances, on 2.7.2010, under reference 3rd cited, show cause notice
– was issued to her under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and
Appeal) Rules, (hereinafter, in short, T.N.C.S.(D&A) Rules) as to why disciplinary
action should not be taken as against her for the dereliction of duty and insubordination.
Under reference 4th cited, on 5.7.2010, she gave explanation that because of her menstrual
period, family problems and mental agony, she was late on that day. Her explanation
was considered by the Officer and were found to be lame and belated excuses, taking into

account her past conduct and punishment, under reference 5th cited, the officer imposed on her a fine of Rs.100/-. She has paid the fine amount.

4. As against the said order, she had appealed. It was returned by the Judicial Magistrate No.VI, Salem, stating that 'no appeal lies to Chief Judicial Magistrate, in case of any penalty appeal lies only to the Hon'ble High Court'. In the circumstances, the Chief Judicial Magistrate, Salem under reference 6th cited forwarded her appeal petition to this Court.

5. As per Rule 19 and 22 of T.N.C.S.(D&A) Rules, if a 'minor penalty' such as fine [See Rule 8(ii)] is imposed by an authority contemplated under Rule 14(a), namely, 'immediate superior officer' of the staff, in this case, Judicial Magistrate No.VI, Salem, an appeal lies to 'the next higher authority', in this case, Chief Judicial Magistrate, Salem. Thus, both Judicial Magistrate No.VI, Salem and Chief Judicial Magistrate, Salem have thoroughly mistaken and have overlooked the Rule position.

6. Now that the staff has preferred the appeal to an authority, higher than the Chief Judicial Magistrate, Salem, namely, High Court, Madras and there will be only one service appeal to any one of the higher authorities let us dispose of this appeal.

7. We have perused the grounds of appeal and the entire file.

8. As against awarding of the penalty of fine, the appellant has raised the following contentions:-

(i) She is an Office Assistant as such she cannot be asked to do duty at the residence of the Officer.

(ii) No charge has been framed and approved by the appointing authority, namely, Chief Judicial Magistrate, Salem and no enquiry officer has been appointed by the appointing authority.

(iii) She has given a satisfactory explanation, but that was not considered.

(iv) She has rendered 13 years of unblemished record of service, but this was not considered.

(v) Before inflicting punishment, she was not heard.

9. The appellant is an Office Assistant. She is governed by 'Special Rules for Tamil Nadu Basic Service'. Her 'appointing authority' is Chief Judicial Magistrate, Salem. On 21.6.2010, she was working in the Judicial Magistrate Court No.VI, Salem. Her 'immediate superior officer' is the said Magistrate. (See Rule 14 of T.N.C.S. (D&A) Rules).

10. As per Rules 8(ii) and 10 of T.N.C.S.(D&A) Rules, fine can be imposed on a member governed under T.N. Basic Service Special Rules. The appellant is a member of T.N. Basic Service. As per Rule 14(a) of T.N.C.S.(D & A) Rules, penalty of fine could be imposed by her immediate superior officer. (also seen Appendix III to T.N.C.S.(D&A) Rules). Thus, Judicial Magistrate No.VI, Salem as her immediate superior officer can impose on her the said penalty.

11. The procedure for imposing 'minor penalties' has been prescribed in Rule 17(a) of T.N.C.S.(D&A) Rules. As per the said Rule, a reasonable opportunity for making representation shall be given to the staff. It is done by issuing a show cause notice calling for explanation from the staff. Under the circumstances, no need to frame a charge. In such circumstances, approving of the same and appointment of an enquiry officer by the appointing authority, namely, Chief Judicial Magistrate, Salem does not arise.

12. Before imposing a minor penalty, it is enough the factual situation and the representation of the staff are considered. Conducting a full scale oral enquiry arises when the enquiry envisages imposition of 'major penalties'. (See Rule 17(b) of T.N.C.S.(D&A) Rules). Such formalities need not be followed, when the disciplinary action is proceeded under Rule 17(a).

13. As per High Court's circular, cited first in reference above and the instructions of the immediate superior officer, the Office Assistant has to carry out the duty also at the residence of the officer. Unlike in other departments, the work culture of the staff belonging to basic service such as Sweeper, Masalchi, Cook, Gardener, Attender and Office Assistants etc., employed in the Judicial Department, who are also to be deployed at the residence of the Judicial Officers and the Hon'ble Judges is entirely different. The

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staff also has to carry out their duties at the residence of the Presiding Officers. However, that does not mean they can be asked to do any kind of work, any inhuman work. But, in this case that is not her contention.

14. This case is a clear case of 'indiscipline', 'insubordination' and 'dereliction of duty'.

15. Already she was awarded the 'punishment of Censure'. Thereafter, she has committed the present misconduct. In the circumstances, the Officer has awarded her the penalty of fine. In the facts and circumstances, it is not excessive.

16. There is nothing to interfere with the order of her immediate superior officer.

17. In the circumstances, as this appeal is devoid of any merits, it is dismissed."

Dated : 5.12.2014