



W.P.No.8814 of 2011

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**RESERVED ON : 15.04.2024**

**PRONOUNCED ON : 30.04.2024**

**CORAM**

**THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN**

**W.P.No.8814 of 2011**

G.Gopinath Reddy

...

Petitioner

**Vs.**

1.The Commissioner of Sugar,  
690, Anna Salai,  
Nandanam, Chennai – 35.

2.The Management Represented by,  
The Special Officer,  
Ambur Co-operative Sugar Mills Ltd.,  
Vadapudupet – 635 182.

...

Respondents

**PRAYER:** Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records in respect of the impugned proceeding R.C.No.11592/96/B1/ dated 02.08.1997 passed by the second respondent and confirmed by the 1<sup>st</sup> respondent vide proceeding R.C.No.11079/A & I/2010 dated 14.01.2011 and quash the same and reinstate the petitioner into service with all monetary and other benefits.

|                |                     |
|----------------|---------------------|
| For Petitioner | : Mr.Wesley Isaac   |
| For R1         | : Mr.D.Gopal        |
|                | Government Advocate |
| For R2         | : Mr.M.Muthusamy    |



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## **ORDER**

**WEB COPY** This Writ Petition has been filed to call for the records in respect of the impugned proceeding in R.C.No.11592/96/B1/dated 02.08.1997, passed by the second respondent and confirmed by the first respondent, vide proceeding in R.C.No.11079/A & I/2010, dated 14.01.2011 and quash the same and reinstate the petitioner into service with all monetary and other benefits.

2.The case of the petitioner is that he joined as a Cane Officer in the second respondent Mill. Vide proceeding R.C.No.11592/95, dated 08.06.95, a charge memo was issued to him alleging that (i) he was careless and lethargic in his duties (ii) He altered and increased the loan to a particular person for his personal gains. (iii) He sent a report in favour of Ragunatha Reddy and Jaganatha Reddy. He gave a detailed explanation dated 26.06.1995 denying all the charges framed against him. An enquiry was conducted in a prejudiced and biased manner. By a proceeding dated 09.09.1996, a show cause notice along with an enquiry report was sent to him. He sent a detailed explanation dated 18.09.1996. Whiles, a second set of charges by proceeding dated 22.03.1996 was framed against him. The first charge is that he tried to supply to the Mill, the canes not registered with the



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Mill from Andhra Pradesh. The second charge is that he removed the registration of the canes that were to be cut and brought at a later date.

Thereafter, he was instrumental in supplying the canes against the rules.

3.The charges against the petitioner are vague and general and not specific. The charges are framed belatedly. The explanation submitted by the petitioner was not properly considered. Without any evidence in proof of the charges, the enquiry officer found the charges against the petitioner proved. He was dismissed from service by proceedings in R.C.No.11592/96/B1/dated 02.08.1997. The appeal filed by him was rejected by the first respondent. He filed a writ petition in W.P.No.1007 of 2004 against the order passed by the first respondent. This Court remanded the matter to the first respondent to consider his appeal afresh. Without properly considering the appeal afresh, the first respondent again confirmed the order of dismissal. Therefore this Writ Petition.

4.It is the submission of the learned counsel for the petitioner that the petitioner served for 13 years without any complaint. The charges framed against him are vague and not specific. His explanation was not properly



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considered. Certain witnesses like Lorry Driver, who is said to have transported the canes from Andhra Pradesh had not been examined. There is no allegation of causing monetary loss to the second respondent or that the petitioner unlawfully gained monetarily. The punishment of dismissal is grossly disproportionate to the alleged misconduct committed by him. Thus, he prayed for setting aside the impugned order passed by the first respondent.

5. Petitioner was not properly heard before imposing the punishment and that is not correct, in this regard, he relied on the judgment in ***Hira Lal Choudhary Vs. The State of Bihar and Ors.*** reported in ***MANU/BH/0264/2007***. The relevant portion of the judgment is extracted hereunder:

*12. Now coming to the question of order of punishment which has been impugned on the ground that it is vitiated firstly because the alleged second show cause itself stands vitiated and secondly because it is non-speaking in nature. So far as the first ground is concerned, it needs no elaboration. So far as the second ground is concerned, the Apex Court in the judgment since reported in the case of Union of India v. M.L. Capoor and Ors. MANU/SC/0405/1973 :*



*(1973)IILLJ504SC , in paragraph-28 has clearly held as to what are reasons. Reasons are the link between facts found and the decision taken. This is a very important link and it is this link the validity whereof is challenged before appellate forum or in course of judicial review. If the reasons are missing or the link between facts found and the decision is missing, the order is non est even though from the order, it is apparent that the authorities applied its mind. It has also been held by the Apex Court in the case of Mahindra and Mahindra Ltd. v. Union of India and Anr. since reported in AIR 1979 SC 498 wherein even though the Apex Court found that there was application of mind inasmuch as the MRTP Commission while striking down certain clauses in a dealership agreement, it upheld the validity of certain clauses but while doing so in neither case, it gave any reason in support thereof and it is on that ground, the order of the Commission was struck down even though it was apparently an ex parte order where the petitioner refused to participate in the proceedings before the Commission. In the present case, the situation is not different. The order of punishment is a totally non-speaking order and does not behave of the administrative authority who is exercising quasi*



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*judicial functions. In words of the Apex Court, in the case of Mahindra and Mahindra Ltd. (supra) the order had a sphynx-like face which goes ill with the judicial process and even though it was an ex parte order, it did not absolve the Commission from the obligation to give reasons in support thereof (paragraph-24 the reports).*

*13. Thus, having found that the respondents were predetermined to find petitioner guilty and impose penalty, punishment being a foregone conclusion, the question is what is to be done now after ten years. The authorities were duty bound to hear the petitioner before they could proceed to hold him guilty. No such opportunity was provided. Will a post-decisional hearing be of any help in the matter especially when it is clearly apparent from the alleged second show cause notice and the order of punishment that it was not merely the opinion of the Disciplinary Authority but an opinion formed on review of the entire matter by the Government that the petitioner was held guilty and punished even without show cause notice? In my view, remitting the matter in the facts of this case, would not meet the ends of justice especially when the second show cause notice itself admits that*



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*petitioner had acted pursuant to directions issued by his superior and not on his own volition. In this connection, I may refer to the judgment of the Apex Court in the case of K.I. Shephard and Ors. v. Union of India and Ors. since reported in MANU/SC/0643/1987 : (1988)ILLJ162SC paragraph-16 of the reports). The Apex Court dealt with somewhat similar situation and held thus:*

*There is no justification to throw them out of employment and then give them an opportunity of representation when the requirement is that they should have the opportunity referred to above as a condition precedent to action. It is common experience that once a decision has been taken, there is a tendency to uphold it and a representation may not really yield any fruitful purpose.*

5.1. In support of his case that the punishment of dismissal is disproportionate and alternatively a lesser punishment can be imposed, he pressed into service the judgment in ***Dev Singh Vs. Punjab Tourism Development Corporation Ltd. & Anr. in Appeal (civil) No.6918 of 2003 dated 02.09.2003.*** The relevant portion of the judgment is extracted hereunder:



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*Hence, having considered the basis on which the punishment of dismissal was imposed on the appellant and the facts and circumstances of this case, we think to avoid further prolonged litigation it would be appropriate if we modify the punishment ourselves. On the said basis, while upholding the finding of misconduct against the appellant, we think it appropriate that the appellant be imposed a punishment of withholding of one increment including stoppage at the efficiency bar in substitution of the punishment of dismissal awarded by the disciplinary authority. We further direct that the appellant will not be entitled to any back wages for the period of suspension. However, he will be entitled to the subsistence allowance payable upto the date of the dismissal order.*

6. In response, the learned counsel for the respondents submitted that the charges against the petitioner are serious in nature. Sugarcane is an essential commodity. There is some procedure for procurement for Sugarcane from the cane growers. The procedure aims at giving benefits to the cane growers and also to the sugar mills. Petitioner, for his own personal benefits, violated the procedure, with a view to procure the canes from the cane



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growers who are not registered with sugar mill. He procured canes from his native Andhra Pradesh without registration. Therefore, he was charged with two charge memorandum. After giving an opportunity for explanation, a proper enquiry was conducted. Petitioner has not participated in one enquiry and participated in another enquiry. On the basis of the oral and documentary evidence produced, the enquiry officer found the charges framed against the petitioner proved. Thereafter, he was given an opportunity to explain about the charges and then only he was imposed with the punishment. In the appeal, the punishment was confirmed. Petitioner filed a writ petition in W.P.No.1007 of 2004, challenging the punishment, wherein, this Court directed the respondents therein to reconsider the matter and dispose the appeal by giving suitable reasons. Accordingly, the appeal was reheard and reasoned order was passed confirming the dismissal. When the dismissal was preceded by a proper and fair departmental proceedings, there is no scope for review of the order passed by the administrative authorities. The scope of judicial intervention in departmental proceedings is very limited. Thus, he prayed for dismissal of this petition.



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6.1. In support of his submissions, he pressed into service, the judgment in ***Ranjit Thakur Vs. Union of India and Others*** reported in **(1987) 4 SCC 611** for the proposition that the judicial review is not directed against a decision, but is directed against the “decision making process”. It confirms to the well established procedures established by law. There is no scope for intervention with the decision making process. He relied on the judgment in ***Union of India and Others Vs. Dwarka Prasad Tiwari*** reported in **(2006) 10 SCC 388** for the proposition that the Court should not interfere with the administrator's decision unless it was illegal or suffering from procedural impropriety or was shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards. The judgment in ***Ramesh Chandra Sharma Vs. Punjab National Bank and another*** reported in **(2007) 9 SCC 15** is relied for the proposition that it is now a trite law that ordinarily the High Court should not interfere with the quantum of punishment imposed by the disciplinary authority, unless the punishment is impermissible in law or wholly disproportionate to the misconduct alleged to be committed by the delinquent officer.

7. Considered the rival submissions and perused the records.



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WEB COPY 8. It is seen from the records produced and the submissions of the learned counsel for the parties that the petitioner was slapped with two charge memos. For better understanding of the charges levelled against the petitioner, English translation of the charges as furnished by the learned counsel for the respondents are extracted hereunder:

(i) Reference No.11592/95.Pa.aa.1, dated 08.06.95

*Charge No. 1:*

*Mr. G. Gopinatha Reddy, Cane Officer, was careless and lethargic in his service.*

*Reasons for the charge:*

*Mr. K.C. Jaganatha Reddy, A. No.23283 Kurumbur, has registered 3 acres of cane for grinding. But he has used the mill for producing jagerry out of 2 acres of cane. A report was prepared in the Divisional office to take legal action on the above said member for using the mill calculating that the yield was of 90 tons. That report not reached the head office. Due to this office, no action could be taken on a member who registered supply of canes. The cane officer has failed to see whether notice served on the said member and failed to take continuous action. By this he was careless and lethargic in his service.*



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*Charge No.2:*

*Mr. G. Gopinatha Reddy, Cane Officer, for his personal gains, has altered and increased the loan to a particular member.*

*Reasons for the charge:*

*One Mr. K.C. Jaganatha Reddy, A. No.23283 Kurumbur was not loyal and he did not deliver the cane registered for supply for the year 1993-94 to Bharatharami Agricultural Cooperative Bank and the so the officer of the bank refused to grant him the loan. But Mr. G. Gopinatha Reddy, Cane Officer has insisted for the grant of loan to the said member. Originally loan to the tune of Rs.11,800/- was prepared and entered in the concerned register. But the cane officer suo motu has increased the loan amount to Rs.15,900/- and corrected the entries. This act is against the rules. Further he has presented the loan application of the said member to the Bharatharami Agricultural Cooperative Bank and requested to give The loan amount to him for his personal gain. This is totally a disobedient act.*

*Mr. K.C. Jaganatha Reddy, has not repaid the loan amount till date to the Bharatharani Agricultural Cooperative Bank. The Bank has requested the Mill to recover the loan. For this the cane officer has not taken any action.*



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**CHARGE No.3:**

*Mr. K.C. Jaganalha Reddy, A. No.23283 has failed to supply the registered cane of 3 acres. He has sent a report calculating 7 ton per acre which is far below than the practicalities. He has sent a report mentioning very low quantum of 10 tons per acre in respect of one Mr. Ragunatha Reddy A. No. 17306, who promised to supply the planted canes of 4 acres and 3 acres of grown canes.*

**Reasons for the charge:**

*Mr. K.C. Jaganatha Reddy, A. No.23283 Kurumbur, has registered to supply planted canes of 2 acres and 1 acre of grown up canes for the year 1993-94. ?? has failed to supply the canes registered. Mr. G. Gopinatha Reddy, Cane Officer, has recommended to take action on the erred member for 20 tons only, calculating at the rate of 7 tons per acre. In the Bharatharami region, for the milling year 1993-94, to about 20 members who failed to supply canes as registered, the value has been calculated between 40 to 50 tons per acre. But for the member Mr. K.C. Jaganatha Reddy alone, he has valued at a very low rate of 7 tons per acre. Further the member Mr. Ragunatha Reddy A. No. 17306, for the year 1993-94 has milled 4 acres of planted canes and 3 acres of grown up canes. For this member also, he has sent a report recommending action calculating at 10 tons per acre, which is against all practical prevalence. By this Mr. G. Gopinatha Reddy, Cane Officer, has sent detrimental reports to the Mill.*



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*Mr. G. Gopinatha Reddy, Cane officer, has to submit his written explanation for the charges levelled against him within 7 days from the date of receipt of this charge memo. It is informed that falling which it will be construed that there is no explanation from him and that the disciplinary action will be taken and decision will be taken and it will be binding on him.*

(ii) Naka.No.11592/95.Pa.aa.1, dated 22.03.1996.

Charge No 1:

*Mr. G. Gopinatha Reddy Cane officer has tried to supply to the Mid comes not registered with the Mill from Andhra Pradesh and thereby comm regularity in his service. He has not only acted against the interest of the Mil thes also misused his position.*

*Reasons for the charge*

*The lorry bearing No.TNF 203 is one among of the contractual vehicle meant to carry the load of canes from the fields of the members to the Mill. The said lorry was sent at about 9.00 pm on 8.3.96 from the cane area of the Milla Peranampat*



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*Division Office to bring a load. The driver of the lorry Mr. G. Mar has told that the vehicle needs to be repaired and so he has gone to his native place Kambavarapatti and returned back to Gudiyatham on 9.3.96 at 9.00 am.*

*Mr. G. Gopinatha Reddy Cane Officer has made arrangement to bring the unregistered cane from his native place at Andhra Pradesh to bring to the Mill in the said lorry. He has paid to the driver a sum of Rs.800/- and also arranged for diesel, Then about 8 tons of unregistered canes were brought from the fields of Mr. G. Gopinatha Reddy. Mr. A.S. Ramasundaram, Bharatharami Cane Officer has noticed the said lorry on 9.3.96 at about 4.30 pm and enquired at Bharatharami. He has informed through Assistant Cane Officer, Guidyatham Division Office that unregistered cane is coming to the cane area of the Division. On coming to know that the truth has come out, Mr. G. Gopinatha Reddy has arranged to deload the unregistrered canes at Kondapalli, Gudiyatham road.*

*Mr. G. Gopinatha Reddy, Cane Officer, has brought the unregistered canes from the State of Andhra*



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*and tried to supply to the Mill and it is an act of Irregularity. He has failed to be a role model for others, committed irregularity and against the interest of the Mill. If the same was not noted in time, then the unregistered canes would have been supplied to the Mill for grinding As there is lot of canes registered with the Mill, the canes have been sent to other Mills with great difficulties steps are bring taken for getting exemption for the registered canes and in this circumstances, the officer who is in the post to prevent such supply of unregistered canes to the Mill, has done such an act, which is a serious crime. During last year, large quantity of canes were grinded. This year, the grinding has been commenced late. There is lot of quantity of canes registered by the members and due to which orders for cutting canes could not be issued In these circumstances it is a serious crime to send canes from outside State*

*Charge No.2:*

*Mr. G. Gopinatha Reddy, Cane Officer, in his Division office has with ulterior intention removed the registration of canes that were to be cut and brought at a later date. There after. he was also*



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*instrumental in supplying the canes against the rules that were exempted and obtained orders for cutting the canes planted earlier/re-growing canes. Thereby he has acted against the interest of the Mill and acted to defame the good name of the Mill.*

*Reasons for the charge*

*(a) One Mr. Bandari, No. 18045, Mill member of Bandalathoti village, Peranampat West, Peranampat Division, has registered for grinding with the Mill for the year 1995-96.*

| <b>Cane Type</b> | <b>Extent Hec/Area</b> | <b>Planted/Re growing Date</b> | <b>Registered Tons</b> | <b>Seedlings/Budding</b> |
|------------------|------------------------|--------------------------------|------------------------|--------------------------|
| 1.92061          | 0.60                   | 30.11.94 na                    | 30                     | Seedlings                |
| 2.92061          | 2.60                   | 31.12.94 ma                    | 60                     | budding                  |
| 3.6304           | 0.90                   | 5.2.95 na                      | 25                     | budding                  |
| 4.85061          | 0.60                   | 1.4.96 ma                      | 10                     | budding                  |
| Total            | 4.70                   |                                |                        |                          |

*In the above mentioned registered canes stated in S. No.3 in 0.90 acres planted in February 95 has been removed from the register based on the request of personal use.*



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*For the canes found in S. No.1 in the extent of 0.60 acres orders for cutting issued on 3.1.96, and from 3.2.96 to 8.2.96 canes were cut and total tons of 26.908 were supplied.*

*For the canes found in S. No.2 in the extent of 2.60 acres orders for cutting issued and from 22.2.96 to 9.3.96 canes were cut and total tons of 81.408 were supplied.*

*While supplying the registered canes mentioned in S. Nos. 1 and 2 above, the canes mentioned in S. No.3, which are exempted from the registration and for the later allotted canes in the extent of 0.60 acres mentioned in S. No.4 for which the cutting orders were not issued, were all supplied against the rules and for which he also abetted. Out of the extent of estimated canes for which orders of cutting were issued, large quantities of canes were supplied and Mr. G. Gopinatha Reddy, Cane Officer, allowed the same.*

*It is clear that he was in connivance to the said act and it also shows that he has acted detrimental to the interest of the Mill with ulterior intention. It is also clear that he has removed the registration of the canes*



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*for which cutting orders will be issued on priority basis, then there after he has sent the same canes along with the canes earlier registered. From this it is clear that he had the intention to send the canes much earlier than that of the other canes that are in back of the priority list.*

*(b) One Mr. N.K. Govindaraj, Member of the Mill No. 15333 Anantagiri, has registered the canes for grinding with the Mill for the year 1995-96*

| <b>S.No.</b> | <b>Type</b> | <b>Extent<br/>Ac.Cent</b> | <b>Planted/Re<br/>growing<br/>Date</b> | <b>Date</b> | <b>Tons</b> |
|--------------|-------------|---------------------------|----------------------------------------|-------------|-------------|
| 1.           | 6304        | 1.50                      | Regrowing                              | 1.2.95      | 45          |
| 2.           | 85061       | 0.40                      | Planted                                | 10.2.95     | 20          |
| 3.           | 85061       | 1.25                      | Regrowing                              | 24.4.95     | 35          |
|              | Total       | 3.15                      |                                        |             |             |

*He has requested to remove from the registration for his personal gains, the canes planted in the extent of 0.40 acre mentioned in S. No.2,*

*He has made a petition stating that the re grown canes mentioned in S. No.1 in the extent of 1.50 acres have been dried on 1.2.95 and obtained orders for cutting. 47.302 tons were supplied between 4.3.96 to*



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*15.3.96. Along with the above said tons of canes, he also abetted in sending 8 tons of canes, against the rules, in the extent of 0.25 acres which is in S. No.3, for which no cutting orders were issued (those were back of the priority list). In these irregularities, Mr. G. Gopinatha Reddy, Cane Officer, who is in the post of cautiously watching and preventing, failed to do and abetted the occurrence.*

*It is also clear that he has removed the registration of the canes for which cutting orders will be issued on priority basis, then there after he has sent the same canes along with the canes earlier registered. From this it is clear that he had the intention to send the canes much earlier than that of the other canes that are in back of the priority list.*

9. On the basis of the charges, oral enquiry was conducted. During the enquiry conducted for the first charge sheet, it appears that the petitioner has not participated in the oral enquiry despite giving sufficient opportunities. Therefore, the enquiry officer based on the evidence produced, especially, M.Ex.No.1 to 13, found that all the three charges had been proved.



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10. Petitioner had participated in the enquiry conducted for proving the second charge sheet. During the enquiry, oral and documentary evidence had been produced. Petitioner also participated in the oral enquiry. On the basis of the oral and documentary evidence, the enquiry officer found that the first charge against the petitioner had been proved and the second charge was held not proved.

11. The main ground on which the learned counsel for the petitioner challenges the charges against the petitioner, especially, the first charge in the second charge sheet is that the Driver of the lorry bearing No. TNF 203 was not examined. The other contention is that the explanation of the petitioner was not properly considered. The first charge in the second charge sheet is that petitioner tried to supply to the Mill, the canes not registered with the Mill from Andhra Pradesh. The specific charge is that the petitioner arranged to bring unregistered canes from his native place Andhra Pradesh through a Lorry. This is a serious charge. When the cane growers, who are registered with the Mill and expecting cutting order for cutting the canes grown in their land for supplying to the Mill, getting canes from Andhra Pradesh from unregistered cane growers is grossly illegal act.



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12. From the report of the enquiry officer, the charges against the petitioner was held proved from the available evidence, irrespective of the non examination of the driver of the Lorry. As already stated, petitioner has not participated in the oral enquiry conducted for proving the first charge sheet. On the basis of the oral and documentary evidence, the enquiry officer found that all the three charges had been proved. Proper oral enquiry was conducted, giving an opportunity to the petitioner, but petitioner failed to participate in the oral enquiry conducted in proving of the first charge sheet. He participated in the second enquiry conducted for proving the second charge sheet. Of the two charges of the second charge sheet, first charge was held as proved. This Court finds that there is no illegality or impropriety in the conduct of the enquiry and the findings recorded by the enquiry officer. There is no ground made out for interfering with the conduct of the enquiry and the enquiry report.

13. One another submission of the learned counsel for the petitioner is that petitioner was not given an opportunity of hearing before imposing punishment. However, that is not correct for the reason that the typed set of



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papers produced shows that the petitioner was served with the copy of the enquiry report along with the show cause notice on 09.09.1996 for the first enquiry and on 31.01.1997 for the second enquiry. He submitted his reply dated 18.09.1996 for the first enquiry report and reply dated 14.02.1997 for the second enquiry report. On going through the findings of the enquiry officer, explanations offered by the petitioner, the disciplinary authority found the charges against the petitioner proved. Considering the gravity of the charges, ordered the punishment of dismissal from service. The appellate authority confirmed the order of the disciplinary authority without a speaking order on 23.02.1998. This Court in W.P.No.1007 of 2004 remanded the matter back for passing reasoned order by the appellate authority. Thereafter, the final order was passed by the appellate authority on 14.01.2011.

14.This Court finds from the records and the orders passed by the disciplinary authority and appellate authority that a proper oral enquiry was conducted, on the basis of the oral enquiry, petitioner was found guilty of the four charges and the disciplinary authority imposed the punishment of dismissal from service. When proper enquiry was conducted and punishment proportionate to the misconduct was imposed, there is no way this Court can



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interfere with the order of the disciplinary authority and appellate authority.

The misconduct committed by the petitioner deserves to be punished with dismissal from service and that was rightly imposed on him. Thus, this Court finds that there is no valid reason to interfere with the proceeding in R.C.No.11592/96/B1/dated 02.08.1997, passed by the second respondent and confirmed by the first respondent vide proceeding in R.C.No.11079/A & I/2010, dated 14.01.2011.

15.In fine, this Writ Petition stands dismissed. Consequently, connected Miscellaneous Petition, if any, is also closed. Parties are directed to bear their own costs.

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**30.04.2024**

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

NCC: Yes/No

To:

1.The Commissioner of Sugar,  
690, Anna Salai,  
Nandanam, Chennai – 35.

2.The Management Represented by,  
The Special Officer,  
Ambur Co-operative Sugar Mills Ltd.,  
Vadapudupet – 635 182.

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**G.CHANDRASEKHARAN, J.**

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**Pre-delivery Order in**  
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