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W.P.No.18702 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 02.07.2026

Pronounced on: 10.07.2026

CORAM

THE HONOURABLE MR.JUSTICE T. VINOD KUMAR

W.P.No.18702 of 2010

P.Liyakathulla
Record Clerk
O/o. Appellate Deputy Commissioner
(Commercial Taxes)
38/71 Poonkundranar Street
Karungalpalayam, Erode-3.

... Petitioner

Vs.

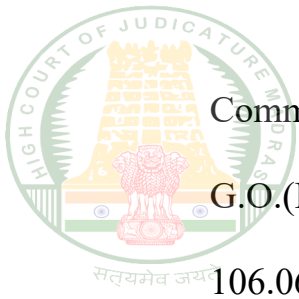
1.The Principal Secretary/Commissioner of
Commercial Taxes, Chepauk
Chennai 600 005.

2.The Secretary to Government
Commercial Taxes & Registration Dept
Secretariat, Chennai 600 009.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying to issue a Writ of Mandamus, calling for the records of the first
respondent relating to the order of punishment in Pro.No.E1/14725/2006
dated 06.07.2009 and the order of the first respondent in G.O.(D).No.193

1/17



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Commercial Taxes and Registration (A1) Department dated 09.06.2010 a



G.O.(D).No.205 Commercial Taxes and Registration (A1) Department dated

106.06.2010, quash the same and to direct the respondents to grant the consequential service and monetary benefits.

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For Petitioner : Mr.S.Madhu Balaaji
for M.Ravi

For Respondents : Mrs.Y.Kavitha
Additional Government Pleader

ORDER

Heard, Mr.M.S.Madhu Balaaji, learned counsel for Mr.M.Ravi, learned counsel for the petitioner and Mrs.Y.Kavitha, learned Additional Government Pleader for the respondents and perused the records.

2. The petitioner by the present Writ Petition has assailed the action of the first respondent in passing the order of punishment dated 06.07.2009 whereby the first respondent had imposed on him the punishment of “stoppage of increment for a period of four years with cumulative effect” under Rule 17(b) of the Tamil Nadu Civil Services (D & A) Rules, 1955, as confirmed in appeal by the Appellate Authority vide order dated 09.06.2010.



3. The case of the petitioner in brief is that while working as Recc

Clerk in the Commercial Taxes Department, he was posted at Bannari

Commercial Taxes Checkpost in Sathyamangalam Taluk, Erode District; that

during the surprise check conducted on the said checkpost between 6.00

Hours to 8.30 Hours on 14.10.2003, he along with his Superior were found

to be collecting money as illegal gratification, while discharging the official

duties to do favours to the vehicles crossing the aforesaid checkpost; that he

was issued with the charge memo dated 14.08.2006 containing four charges;

that the first respondent/Disciplinary Authority on finding his explanation

not satisfactory, appointed enquiry officer to conduct enquiry into the

charges; that the enquiry Officer after conducting enquiry submitted his

report whereby except in respect of charge No.2 relating to possession of

unexplained cash on the person of the petitioner, found the other charges

namely Charge Nos.1, 3 & 4 'not proved'; that the first respondent

disagreeing with the said enquiry report issued a disagreement note and

called upon the petitioner to submit his explanation; that he had submitted

his further explanation on 04.06.2009; that the first respondent without

considering his further explanation has passed the order of punishment dated

06.07.2009 on mere surmises and conjectures; and that the said order was

confirmed by the Appellate Authority.



4. Counter affidavit is filed on behalf of the respondents.

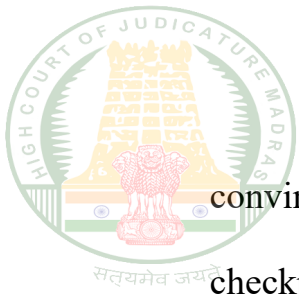
5. The respondents by the counter affidavit mainly contended that during the surprise check conducted by the Vigilance and Anti-Corruption officials at the Bannari Commercial Taxes Checkpost in Sathiyamangalam Taluk, Erode District, on 14.10.2003, the authorities found unexplained money which was recovered under Mazhar; that the Vigilance and Anti-Corruption Authorities (i) recovered Rs.150/- from the window of the Bannari Checkpost opposite to the checkpost officer seat; (ii) recovered a sum of Rs.2,600/- from the pocket of the petitioner; (iii) recovered a sum of Rs.810/- from the wooden almirah of the petitioner's seat and (iv) recovered a sum of Rs.180/- from Thiru.R.Sivakumar, an unauthorized person in the checkpost.

6. The respondents further contended that having regard to the said irregularity, charges were framed against the petitioner and after following due procedure and affording opportunity to the petitioner, the first respondent had passed the order dated 06.07.2009 imposing the punishment on the petitioner.



7. The respondents further contended that the petitioner aggrieved the aforesaid order of punishment, filed appeal to the Government and the second respondent had rejected the appeal on 16.06.2010 as devoid of merits.

8. The respondents further contend that disciplinary action was initiated and punishment awarded to the petitioner based on the evidence; that during the surprise inspection conducted by the Vigilance and Anti-Corruption authorities, an amount of Rs.2,600/- was found in the pocket of petitioner; that though the petitioner claimed that the said amount of Rs.2,600/- recovered from him was meant for purchase of medicine, since there were other amounts that were found in the wooden almirah of the petitioner and also at the window of the checkpoint and apart from the presence of the unauthorised person, and as the petitioner could not give any convincing explanation for all these amounts recovered at the check post, the petitioner and other officials who were present at the check post alone are to be held responsible; and that for the said reason, proceedings have been initiated against all the officials present at the checkpoint at the time of inspection by the Vigilance and Anti-Corruption Authorities.



9. The respondents also contended that the petitioner could not gi

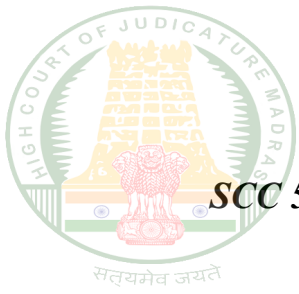
convincing explanation for being found with the unexplained money at the checkpoint and in the absence of any proof of authorized collection of the said cash, the Disciplinary Authority is not precluded from drawing an adverse inference in relation to the said amount having been collected unauthorizedly in discharge of the duties by the petitioner, for initiating the disciplinary action and imposing the punishment under the (D&A) Rules.

10. The respondents by the counter affidavit also contended that having regard to the misconduct, the punishment imposed is neither disproportionate nor shocking to the conscience of the Court for this Court to interdict the said order. Contending as above, the respondents seek dismissal of the Writ Petition.

11. In support of the above contentions, reliance is placed on the following decisions:

1) *Union of India and others Vs. P.Gunasekaran*, reported in (2015) 2 SCC 610.

2) *B.C.Chaturvedi Vs. Union of India and others*, reported in (1995) 6 SCC 749.



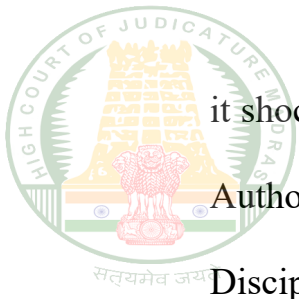
3) *State of Karnataka and another Vs. Umesh*, reported in (2022),
SCC 563.

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4) *Deputy General Manager (Appellate Authority) and others Vs. Ajai Kumar Srinivastava*, reported in (2021) 2 SCC 612.

12. I have taken note of the respective contentions urged.

13. In a Writ Petition filed under Article 226 of the Constitution of India against the order of Disciplinary Authority imposing the punishment which order has also been subjected of appeal, the Writ Court cannot act as Second Appellate Authority by re-appreciating or re-evaluating the evidence. The Writ Court is only required to see as to whether the disciplinary proceedings have been conducted in accordance with the statutory regulations by adhering to the principles of natural justice and the finding is based on some evidence. If it is found that there is no infraction of the procedure and the finding recorded is based on some evidence, the Court in its exercise of power of Judicial review cannot ordinarily re-appreciate the evidence and arrive at its own conclusion based on the said evidence or hold that the Disciplinary Authority could have awarded lesser punishment. It is only when the punishment imposed is so disproportionate to the offence that



it shocks the conscience of the Court or if the conclusion of the Disciplinary

Authority is found to be based on other reasons, the Court can call upon the

Disciplinary Authority to re-consider the penalty imposed. Such an exercise

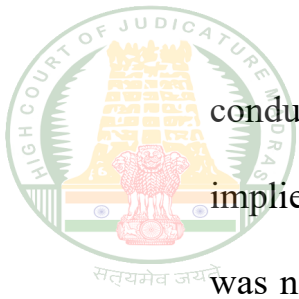
is to be undertaken only in exceptional circumstances by recording cogent

reasons and not in a routine manner. *[See: Union of India Vs. Subrata Nath*

reported in 2022 SCC Online SC 1617].

14. Though the petitioner, by drawing the attention of this Court to the findings of the enquiry officer in the enquiry report, sought to contend that since the enquiry officer having found that out of the four charges, he was satisfied that only one charge was found proved while the other charges were found not proved, the Disciplinary Authority could not have and ought not to have disagreed with the enquiry report to pass the impugned order, it is to be noted that the findings of the enquiry officer are not final and the disciplinary authority by recording reasons for his disagreement with such findings, can call upon a delinquent to submit his explanation.

15. Insofar the proved charge is concerned, though the petitioner claimed that the money found on his person was meant to purchase medicine for his daughter, it is to be noted that the surprise check at the checkpoint was



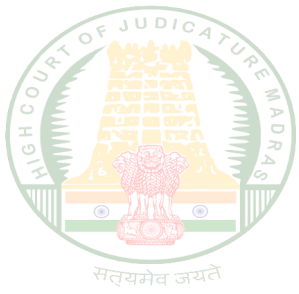
conducted in the early hours i.e., between 6.00 hours and 8.30 hours whi

implies that the petitioner was working in night shift at the checkpost and was not coming from house or giving house in regular office hours for him to purchase medicine. Further, both the enquiry officer and disciplinary authority having found the said explanation not convincing based on evidence, thus Court cannot reevaluate the evidence on the said issue.

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16. Further the petitioner at the time of marking his attendance at the time of reporting to duty was required to make an entry of the amount being carried on his person in the remark column of the attendance register. Admittedly, no such entry was made by the petitioner to contend that the said money was in his possession even before he reported to duty on the previous day/night.

17. Notwithstanding the fact that the said explanation of the petitioner does not appeal to this Court far from being acceptable for more than one reason, the same would also amount to this Court re-appreciating the evidence which has been clearly held to be not permissible by the Hon'ble Apex Court in the case of *Union of India and others, Vs. P.Gunasekaran*, reported in *(2015) 2 SCC 610*, wherein it was observed as hereunder:



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“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority on the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second Court of first appeal. The High Court, in exercise of its powers under Article 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

(a) the enquiry is held by a competent authority;

(b) the enquiry is held according to the procedure prescribed in that behalf;

(c) there is violation of the principles of natural justice in conducting the proceedings;

(d) the authorities have disabled themselves from reaching a fair conclusion by some consideration extraneous to the evidence and merits of the case;

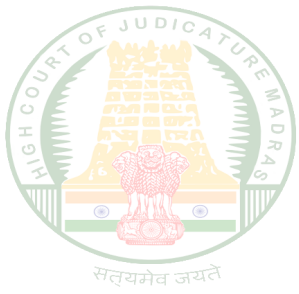
(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;

(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

(i) the finding of fact is based on no evidence.



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13. Under Article 226/227 of the Constitution of India, the High Court shall not:

- (i) *reappreciate the evidence;*
- (ii) *interfere with the conclusion in the enquiry, in case the same has been conducted in accordance with law;*
- (iii) *go into the adequacy of the evidence;*
- (iv) *go into the reliability of the evidence;*
- (v) *interfere, if there be some legal evidence on which findings can be based;*
- (vi) *correct the error of fact however grave it may appear to be;*
- (vii) *go into the proportionality of punishment unless it shocks its conscience.”*

18. Though on behalf of the petitioner, it is sought to be contended that the Disciplinary Authority had proceeded to impose punishment on the petitioner on mere surmises and conjectures, since the Disciplinary Authority had assumed that an amount of Rs.960/- other than Rs.2,600/- should probably be the bribe money and on mere probability, the petitioner cannot be awarded punishment, firstly, it is to be noted that in the Disciplinary proceedings, the standard of proof required is that of preponderance of probability and not beyond reasonable doubt as in a criminal case.



19. Since, the Vigilance and Anti-Corruption Authority having fou

and recovered money during their inspection at the checkpoint which was not found to be entered in the records of the Commercial Taxes Department at the checkpoint and the explanation offered by the delinquent not being found acceptable by the Disciplinary Authority, the High Court cannot sit as a Second Court of Appeal regarding the decision of the Disciplinary Authority to arrive at a different conclusion as to whether the explanation offered by the delinquent is plausible or not.

20. In a challenge to order of Disciplinary Authority the Court is only required to consider as to whether enquiry has been properly held and once it is found that the enquiry has been held properly, the question of adequacy or reliability of the evidence cannot be gone into or canvassed before the High Court. *[See: (i) Union of India Vs. Sardar Bahadur* reported in *1972 (4) SCC 618 (ii) Airports Authority of India Vs. Pradip Kumar Banerjee* reported in *2025 SCC Online SC 1020]*

21. It is trite law that the scope of Judicial review of punishment/penalty imposed by the Disciplinary Authority by Court is limited and is permissible only on limited grounds. The grounds of



interference by the Writ Court has been summarized by the Apex Court

the case of ***State of Karnataka and another Vs. Umesh***, reported in (2022) 6

SCC 563, wherein the Apex Court had restricted the grounds of Judicial

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Review to interfere with the punishment/penalty imposed by the

Disciplinary Authority, which are as hereunder:

“22. In the exercise of Judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The Court does not reappreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its review to determine whether:

(i) the rules of natural justice have been complied with;

(ii) the finding of misconduct is based on some evidence;

(iii) the statutory rules governing the conduct of the disciplinary enquiry have been observed; and

(iv) whether the findings of the disciplinary authority suffer from perversity; and

(v) the penalty is disproportionate to the proven misconduct.”

22. The Disciplinary Authority is the sole Judge of the facts and the Appellate Authority, having co-extensive power to re-appreciate the evidence, having found no ground to interfere with the order of punishment imposed on the petitioner the Writ Court cannot reappreciating/reevaluation arrive at different conclusion. **[See: (i) *B.C.Chaturvedi Vs. Union of India* 13/17**



and others, reported in (1995) 6 SCC 749 (ii) *State of Andhra Pradesh* 1

Chitra Venkata Rao, reported in (1975) 2 SCC 557].

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23. In the facts of the present case, since, the respondents have conducted an enquiry before imposing the penalty on the petitioner and having followed the statutory regulations and procedure and also having afforded opportunity to the petitioner, it cannot be said that there is any procedural infraction or violation of principles of natural justice for this Court to interdict with the order of the Disciplinary Authority.

24. Further, even with regard to the award of punishment it is only when the punishment awarded is grossly disproportionate to the proved charge, shocking the conscience of this Court, interference is called for which in the facts of the present case does not appear to be so.

25. Since, the petitioner, who was discharging his duties as Record Assistant at the checkpost of the Commercial Taxes Department, was found with unexplained money in his person and also at the work place under his control, the conclusion arrived at by the Disciplinary Authority cannot be said as without any basis or evidence or that the punishment awarded is



harsh for this Court to set aside the same and remit back for consideration.

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26. In view of the aforesaid discussion, this Court is of the view that the impugned order of the first respondent as affirmed by the second respondent does not suffer from any illegality or perversity or can it be said that excessive punishment awarded shocking the conscience of this Court to exercise its Judicial Review.

27. Accordingly, this Writ Petition fails and the same is dismissed. No costs.

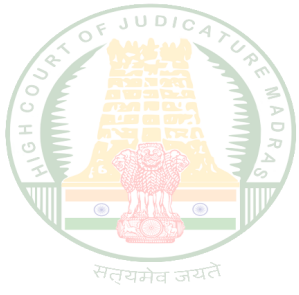
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Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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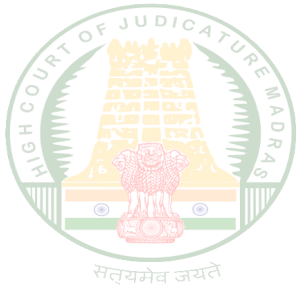
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T. VINOD KUMAR, J.

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**Pre-Delivery Order in
W.P.No.18702 of 2010**

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