



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-07-2026

WEB COPY

CORAM

THE HON'BLE MS. JUSTICE P.T. ASHA

WP No. 26464 of 2026

and

WMP Nos. 28940 and 28943 OF 2026

A.Janagan
S/o.Arasappan
Commandant
TSP XI Battalion
Rajapalayam
Virudhunagar District
(formerly small Arms,Avadi,Chennai-54)

..Petitioner(s)

Vs

1. The Secretary to Government
Home(Pol.IA)Department
Secretariat, Fort St.George,
Chennai-9
2. The Director General of Police
and Head of police force
Tamilnadu
Dr.Radhakrishnan salai
Mylapore
Chennai-4
3. The Inspector General of police
Armed police
Kilpauk
Chennai-10



..Respondent(s)

WEB COPY

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in connection with the impugned order passed by him in Letter No.14855/Pol.IA/2024 dated 28.4.2026 enclosing the copy of the Enquiry officers report dated 20.6.2024 quash the same and consequently direct the respondents to conduct a fresh preliminary enquiry and thereafter follow the procedure established under law as enumerated u/r 17(b) of the Tamilnadu Civil services(Discipline and Appeal) Rules and conduct the disciplinary proceedings in a manner known to law within a limited time frame.

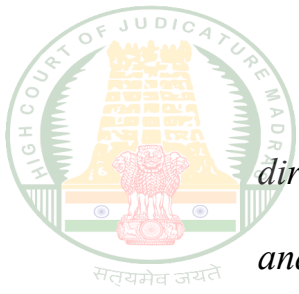
For Petitioner(s): Mr.K.Venkataramani,
Senior Counsel for Mr.M.Muthappan

For Respondent(s): Mr.A.R.Balaji
Government Advocate

Order

This writ petition has been filed for the following relief:

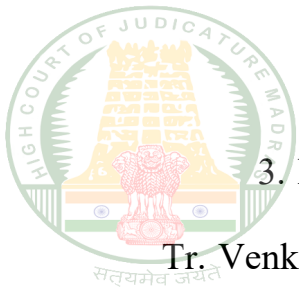
“To issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in connection with the impugned order passed by him in Letter No.14855/Pol.IA/2024 dated 28.4.2026 enclosing the copy of the Enquiry Officer’s report dated 20.6.2024 and quash the same and consequently



WEB COPY

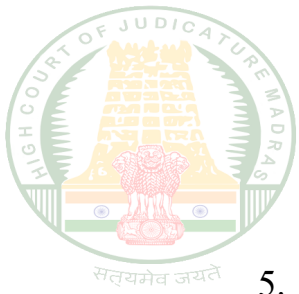
direct the respondents to conduct a fresh preliminary enquiry and thereafter follow the procedure established under law as enumerated under Rule 17(b) of the Tamilnadu Civil services(Discipline and Appeal) Rules and conduct the disciplinary proceedings in the manner known to law within a limited time frame.”

2. The petitioner would submit that he had entered into service in 1997 as a directly recruited Sub-Inspector of Police through the Tamil Nadu Uniformed Service Recruitment Board. He was promoted as Inspector of Police on 07.06.2005, Assistant Commandant in 2012, Deputy Commandant in 2019, and finally as Commandant on 04.06.2019. Upon promotion as Commandant, the petitioner was posted to Small Arms, Avadi, Chennai. From 01.06.2019 to 11.11.2019, he served on Ex-duty with the Tamil Nadu Special Police at Tihar Jail. During this tenure, an auction/tender for the disposal of various materials was finalized. The transaction amounts were collected and remitted by the Quarter Master, Inspector Mr. Patel. The petitioner was alleged to have remitted only a sum of Rs.7,670/- when the articles were sold for Rs.1,31,200. The petitioner would submit that a preliminary enquiry was conducted against him in respect of the said allegation.



3. Following a preliminary enquiry conducted by Assistant Commandant Tr. Venkatachalam, a report was filed on 21.02.2020. The petitioner was issued a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules.

4. The petitioner would further state that he submitted a detailed explanation denying all charges and requested Tamil translations of the documents to defend himself. Thereafter, several officers were appointed and finally one Ms. Vijayakumari, Inspector General of Police (Armed Police) was appointed who conducted the oral enquiry and submitted a report on 20.06.2024, holding all charges to be "proved by preponderance of probability." The 1st respondent communicated this report to the petitioner vide the impugned letter bearing No.14855/Pol.IA/2024 dated 28/04/2026 indicating that the Government had already decided to accept the findings and directing the petitioner to file a representation within 15 days. The petitioner would further submit that the entire charge memo was initiated out of vengeance by several people in the department. Aggrieved by the impugned letter dated 28.04.2026, the petitioner has filed the present writ petition seeking the aforesaid relief.



WEB COPY

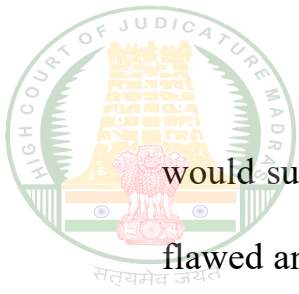
5. Heard the learned counsels on both sides and perused the materials available on record.

6. A mere reading of the impugned order particularly paragraph No.2 which reads as follows:-

“2. On a careful consideration of the report of the Inquiry Officer, the disciplinary authority agrees with the findings of the Inquiry Officer holding the charges as ‘Proved’.”

From the above, it is evident that even before receiving the petitioner's explanation to the enquiry report, the disciplinary authority, namely the 1st respondent, had already held that the charges stood proved against the petitioner.

7. Mr.K.Venkataramani, learned Senior Counsel appearing for the petitioner would submit that the disciplinary authority has to first issue the enquiry report to the petitioner, receive his explanation and thereafter consider the same along with the enquiry report and pass further orders. Therefore, he

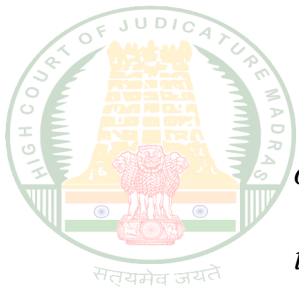


would submit that the entire procedure adopted by the disciplinary authority is flawed and, the impugned order has to be set aside. In support of his argument, he would rely upon the judgment of the Constitutional Bench of the Hon'ble Supreme Court reported in **(1993) 4 SCC 727/ *Managing Director, ECIL, Hyderabad and Others Vs B.Karunakar and Others*** and the order of this Court made in ***W.P.No.6909 of 2021 dated 01.04.2025/ Dr.R.Muthukumar -Vs The Director of Medical Education, Kilpauk, Chennai***.

8. Per contra, Mr.R.Balaji, learned Government Advocate appearing on behalf of the respondents would submit that a reading of Rule 17(b)(ii) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules clearly indicates that what is contemplated is only an explanation from the delinquent with reference to the penalties that are proposed to be imposed on him. He would also rely upon the judgment of the Hon'ble Supreme Court cited supra.

9. In order to appreciate the argument that has now been put forward, it would be essential to extract the Rule 17(b)(ii).

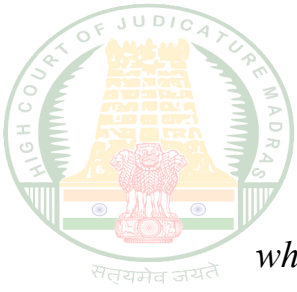
“After the inquiry or personal hearing referred to in clause (i) has been completed, the authority competent to impose the penalty specified in that clause, is of the opinion,



WEB COPY

on the basis of the evidence adduced during the inquiry, that any of the penalties specified in Rule 8 should be imposed on the person charged, it shall, before making an order imposing such penalty, furnish to him a copy of the report of the inquiry or personal hearing or both, as the case may be, and call upon him to submit his further representation, if any, within a reasonable time, not exceeding fifteen days. Any representation received in this behalf within the period shall be taken into consideration before making any order imposing the penalty, provided that such representation shall be based on the evidence adduced during the inquiry only. It shall not be necessary to give the person charged any opportunity of making representation on the penalty proposed to be imposed.”

10. A reading of the above Rule at first blush would show that the explanation from the delinquent is only with reference to the penalty that has to be imposed upon him. However, the Hon'ble Supreme Court in the judgment in ECIL cited supra was called upon to consider the following issue.



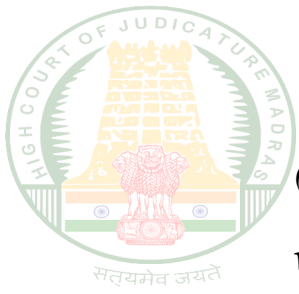
WEB COPY

“2. whether the report of the enquiry officer/authority who/which is appointed by the disciplinary authority to hold an inquiry into the charges against the delinquent employee, is required to be furnished to the employee to enable him to make proper representation to the disciplinary authority before such authority arrives at its own finding with regard to the guilt or otherwise of the employee and the punishment, if any, to be awarded to him.

The Hon’ble Supreme Court further broke down the above issue into the following incidental questions:

(i) Whether the report should be furnished to the employee even when the statutory rules laying down the procedure for holding the disciplinary inquiry are silent on the subject or are against it?

(ii) Whether the report of the enquiry officer is required to be furnished to the delinquent employee even when the punishment imposed is other than the major punishment of dismissal, removal or reduction in rank?



WEB COPY

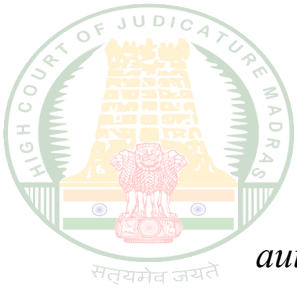
(iii) *Whether the obligation to furnish the report is only when the employee asks for the same or whether it exists even otherwise?*

(iv) *Whether the law laid down in Mohd. Ramzan Khan case will apply to all establishments - Government and non-Government, public and private sector undertakings?*

(v) *What is the effect of the non-furnishing of the report on the order of punishment and what relief should be granted to the employee in such cases?*

(vi) *From what date the law requiring furnishing of the report, should come into operation?"*

The learned Judges had discussed this issue and the genesis of this law from the Public Servants (Inquiries) Act, 1850. The learned Judges had observed that the language of the provision as it stood earlier was that "*reasonable opportunity to show cause against the action proposed to be taken in regard to him*" which was interpreted by the courts to mean the stage at which the disciplinary authority had arrived at its tentative conclusion with regard to the guilt of the employee and the punishment to be awarded to the employee. This position underwent a change after the 42nd Amendment of the Constitution and the same has been captured as follows:-

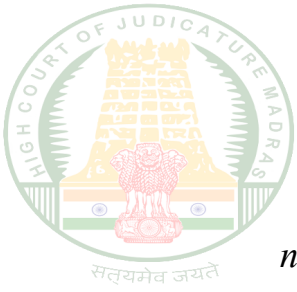


WEB COPY

“28.....Till that time, the conclusions that the disciplinary authority might have arrived at both with regard to the guilt of the employee and the penalty to be imposed were only tentative. All that has happened after the Forty-second Amendment of the Constitution is to advance the point of time at which the representation of the employee against the enquiry officer's report would be considered. Now, the disciplinary authority has to consider the representation of the employee against the report before it arrives at its conclusion with regard to his guilt or innocence of the charges.”

If the provisions of Rule 17(b)(ii) is read in tune with the judgment of the Hon'ble Supreme Court, it would clearly indicate that the disciplinary authority has to first forward the enquiry report to the delinquent and call upon him to submit his explanation. After receipt of his explanation, the disciplinary authority shall thereafter analyse the enquiry report and the explanation and arrive at a decision with reference to the imposition or otherwise of punishment.

11. Further, a learned Judge of this Court in W.P.No.6909 of 2021 dated 01.04.2024 had held as follows:



WEB COPY

“9. The records further reveal that in the show cause notice dated 05.08.2014, issued by the third respondent to the petitioner calling for his explanation to the enquiry officer's report, the third respondent predetermined the issue by holding that the Government agreed with the findings of the enquiry officer, that all the three charges against him were proved. When the disciplinary authority/ the third respondent accepted the findings of the enquiry officer, even at the stage of the show cause notice, there was no point in issuing the notice. The show cause notice is meant for obtaining the objections of the delinquent employee to the findings of the enquiry officer and for affording an opportunity to him to defend himself. The third respondent by pre-judging the issue frustrated the object of the notice, making it an empty formality. The disciplinary authority, in my view, by pre-judging the issue acted in violation of the principles of natural justice. Hence, the procedure adopted by the disciplinary authority for imposing the capital punishment of dismissal from service is erroneous and illegal.”

Therefore, on a consideration of the discussion aforesaid, the impugned order cannot be sustained.



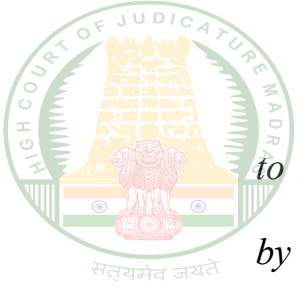
WEB COPY

12. The petitioner has sought to quash the enquiry report. This relief cannot be granted for the simple reason that the enquiry report has been submitted after examination of the witnesses etc. and the same has to be considered for passing an order imposing punishment or otherwise. The petitioner is now aggrieved by the impugned communication as it clearly displays the mind of the 1st respondent who is convinced that the petitioner is guilty of the charges.

13. Therefore, this writ petition is partly allowed with the following directions:-

(i) Since the petitioner has already received the enquiry report, he shall submit an explanation to the same within a period of four weeks from the date of receipt of a copy of this order.

(ii) On receipt of the explanation submitted by the petitioner, the disciplinary authority shall consider the explanation along with the further representation / explanation



*to the enquiry report and pass a speaking order, uninfluenced
by the earlier stand taken in the impugned order.*

WEB COPY

No costs. Consequently, connected miscellaneous petitions are closed.

10-07-2026

Index: Yes/No

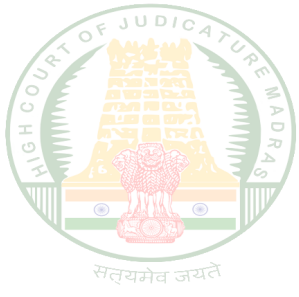
Speaking/Non-speaking order

Neutral Citation: Yes/No

SRN

To

1. The Secretary to Government
Home(Pol.IA)Department
Secretariat, Fort St.George,
Chennai-9
2. The Director General of Police
and Head of Police Force
Tamilnadu
Dr.Radhakrishnan Salai
Mylapore
Chennai-4
3. The Inspector General of Police
Armed police
Kilpauk
Chennai-10



WEB COPY

WP No. 26464 of 2



P.T.ASHA J.

SRN

**WP No. 26464 of 2026
and
WMP Nos. 28940 and 28943 of 2026**

10-07-2026