

WA NO.3466 OF 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2026

CORAM

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR**

**W.A.NO.3466 OF 2024
AND
CMP NO.26963 OF 2024**

1.The Commissioner
Corporation of Chennai
Ripon Buildings,
Chennai – 600 003.

2.The Chairman
Appointment Committee
Corporation of Chennai
Ripon Buildings,
Chennai – 600 003.

... Appellants

Vs.

1.Mrs.Anuradha
W/o. Gopi Nagamani
No.7, Jayaram Nagar, 1st Cross Street,
Gerugambakkam, Chennai – 600 112.

2.The Secretary
Government of Tamil Nadu
Municipal Administration & Water Supply Dept.,
Fort St. George, Chennai – 600 009.

... Respondents



PRAYER: Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 22.03.2024 passed in W.P.No.31282 of 2016.

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For Appellants : Ms.P.Vidhya Shree
for Ms.P.T.Rama Devi

For Respondent-1 : Ms.M.Sahaya Selvi

For Respondent-2 : No appearance

J U D G M E N T

(Judgment of the Court was made by S.M.Subramaniam, J.)

Commissioner, Greater Chennai Corporation, preferred the present intra court appeal to assail the writ order dated 22.03.2024 passed in W.P.No.31282 of 2016.

2.The first respondent was initially appointed as Female Ward Attender on 08.12.1993 on compassionate grounds. Subsequently, she was promoted to the post of Typist on 07.08.1996. She was further promoted as Assistant on 13.11.1999. She served in Chennai Corporation till 03.04.2007.

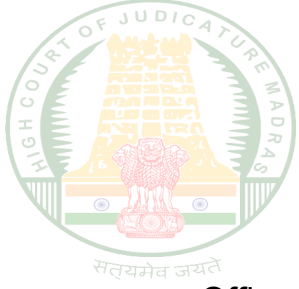
3.The first respondent applied for a 'No Objection Certificate' on 07.07.2006 to obtain a passport in order to visit her husband who was employed in Qatar, UAE. 'No Objection Certificate' was issued to obtain



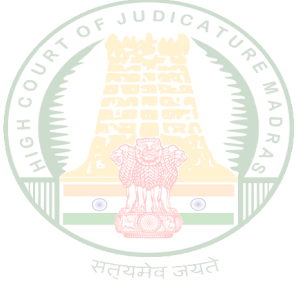
passport on condition that the No Objection Certificate would remain valid for a period of six months only along with other conditions issued vide Proceedings dated 01.02.2007. The first respondent was permitted to leave the Headquarters as per the Proceedings of the Commissioner of Chennai Corporation, dated 03.04.2007.

4.On expiry of the leave period of six months, the first respondent did not rejoin duty on 22.09.2007. After the expiry of the leave period, she remained unauthorisedly absent from duty. The first respondent sending representations / leave applications to the Corporation for extension of leave. However, no leave was sanctioned nor permission was accorded to stay in abroad. Subsequently, she was requested for maternity leave for a period of three months. Subsequently, after the delivery of her child, she submitted an application seeking medical leave.

5.Perusal of the records would reveal that the first respondent was sending several representations and leave applications to the Chennai Corporation. However, she failed to rejoin duty. The first respondent remained unauthorisedly absent from duty for a long period. Thus, departmental disciplinary proceedings were initiated against her.



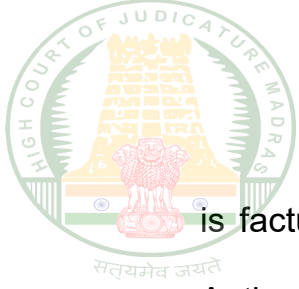
6.The notices and the proceedings issued by the Enquiry Officer as well as the Disciplinary Authority were returned with the endorsement that the address was incorrect. The Enquiry Officer conducted an enquiry on 13.04.2009 and 08.05.2009. The notice sent by the authorities was returned with the endorsement, 'no such person is available.' Thereafter, opportunity was afforded to the first respondent and an enquiry was conducted on 30.06.2009 at 11.00 a.m. Finally, the first respondent participated in the enquiry conducted on 01.07.2009. On that day, opportunity was afforded to the first respondent to submit her additional explanation. Enquiry was again conducted on 19.10.2009 and after affording opportunity contemplated under the Discipline and Appeal Rules, final order was passed by the Disciplinary Authority imposing the punishment of 'compulsory retirement'. However, opportunity was afforded to the first respondent to approach the Chairman / Appointment Committee. The Chairman, being the Commissioner of Chennai Corporation, passed a detailed order and rejected the appeal. Thereafter, a revision petition was filed before the second respondent / Government by the first respondent. The Government also considered the grounds raised by the first respondent and rejected the revision petition vide G.O.Ms.No.366, Municipal Administration and Water Supply Department, dated 05.07.2013.



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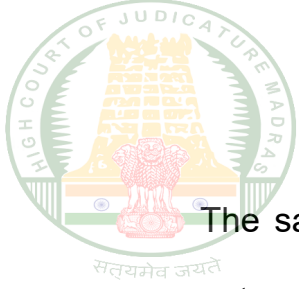
7.Ms.P.Vidhya Shree, learned counsel appearing on behalf of the appellants / Chennai Corporation would submit that the departmental disciplinary proceedings were initiated for the long unauthorised absence. Enquiry was conducted by affording an opportunity to the delinquent officer. She had not participated in the enquiry at the initial stage, but subsequently, appeared before the Enquiry Officer on 01.07.2009. Considering the fact that the first respondent did not rejoin duty and remained unauthorisedly absent for a long period, the punishment of compulsory retirement was imposed. The revision petition filed before the Government was also rejected.

8.The writ Court did not take into consideration the prolonged unauthorised absence as well as the intention of the delinquent officer / first respondent to stay in abroad without obtaining prior sanction of leave from the Competent Authority. The first respondent stayed for long years in abroad without even providing correct address and details to the Corporation. That being the case, the punishment of compulsory retirement cannot be said to be disproportionate. The other grounds relied upon by the writ Court that the Disciplinary Authority and the Appellate Authority are one and the same,



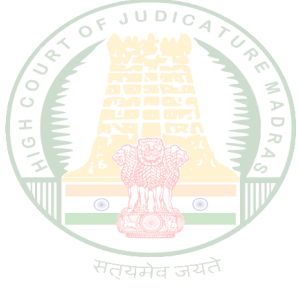
is factually incorrect. The Commissioner, in his capacity as Disciplinary Authority, imposed the punishment of compulsory retirement. In his capacity as a Chairman, Appointment Committee, a decision was taken by the Appointment Committee and the Appointment Committee passed Resolution No.153/10 dated 18.05.2010 and the same was communicated by the Commissioner vide Proceedings dated 06.07.2010. Therefore, it cannot be construed that the Commissioner, in his capacity has taken a decision of the Disciplinary Authority and rejected the appeal. Thereafter, the first respondent approached the Government by filing revision petition and the same was also rejected by the Government. That being the factum, the reason stated by the writ Court is not in consonance with law.

9.The learned counsel for the first respondent would contend that the first respondent, no doubt, had gone to abroad to visit her husband. Due to unavoidable circumstances, she was unable to return back. She submitted explanations to the Corporation. Further, the first respondent suffered from ill health, which was periodically intimated to the Corporation through representations and leave applications. That apart, the first respondent suffered ill-health and it was periodically informed by way of representations and by submitting leave applications.



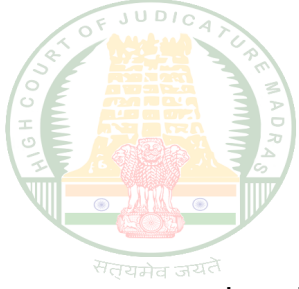
The said representations / leave applications on medical grounds were not considered. Therefore, the punishment of compulsory retirement is excessive.

10.Perusal of the records would show that the first respondent was sanctioned leave for 171 days to visit her husband, who served at Qatar, U.A.E. No Objection Certificate was issued for a period of six months. Thereafter, the first respondent remained unauthorisedly absent from duty for an indefinite period. Except for submitting certain leave applications and representations, the first respondent has not taken any effort to rejoin duty. Consequently, disciplinary proceedings were initiated against her for the prolonged unauthorised absence, and an Enquiry Officer conducted the enquiry by affording opportunity to the respondent. Even the notice sent to the first respondent remained unserved for want of correct address. But finally, the first respondent appeared before the Enquiry Officer on 01.07.2009. Even on that day, an opportunity was afforded to the first respondent to submit her further explanation. Thus, the enquiry was conducted in compliance with the rules of natural justice. Based on the proved charges, the punishment of compulsory retirement was issued.



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11.Regarding the proportionality, this Court is of the considered view that long unauthorised absence had been established. Domestic enquiry was conducted in compliance with the principles of natural justice. Opportunity was afforded to the first respondent to defend her case and the same has not been denied by her. Commissioner, in his capacity as Disciplinary Authority, passed the original order of punishment imposing the punishment of compulsory retirement. The appeal filed before the Appointment Committee was considered by the Committee and Resolution No.153/10 dated 18.05.2010 was issued. The decision of the Appointment Committee was communicated by the Commissioner to the first respondent vide Proceedings dated 06.07.2010. Therefore, it cannot be construed that both the original order of punishment and the appellate order were passed by the same authority. The said ground raised on behalf of the first respondent is untenable. Thereafter, the first respondent approached the Government by filing a revision petition. The said revision petition was also rejected by the Government vide G.O.Ms.No.366, Municipal Administration and Water Supply Department, dated 05.07.2013.



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12.The prolonged unauthorised absence of a public servant, when intentional, cannot be viewed lightly. In the present case, the first respondent overstayed at abroad intentionally, knowing the consequences. She had not taken any efforts to rejoin duty despite actions taken. Even her correct address and whereabouts were not intimated to the competent authorities. Such reckless conduct on the part of a public servant cannot be condoned. That apart, she had not participated during the enquiry proceedings except one occasion. The long unauthorised absence as well as the conduct of the first respondent in responding to the enquiry proceedings would be suffice to arrive at a conclusion that the punishment of compulsory retirement cannot be construed as disproportionate to the gravity of the charges proved.

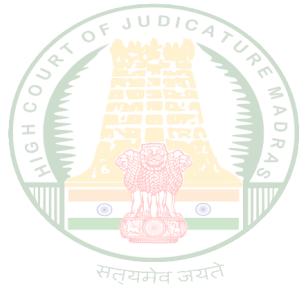
13.In view of the said factum, the impugned writ order dated 22.03.2024 passed in W.P.No.31282 of 2016 is set aside and the writ appeal is allowed. However, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

[S.M.S., J.]

[N.S., J.]

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Index : Yes
Speaking Order : Yes
Neutral Citation : Yes
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