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W.P(MD) No.16757 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved	28/04/2026
Date of Pronounced	21/07/2026

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

W.P(MD) No.16757 of 2014

S.J.Syed Rafiq Ahamed : Petitioner

Vs.

1.The Principal District Judge,
Madurai.

2.The Registrar General,
Madurai High Court,
Chennai.

: Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Ceriorarified Mandamus, calling for the records pertaining to the impugned order passed by the 1st respondent, dated 23/02/2010 as confirmed in the appeal by the second respondent in R.O.C No.298/2011/C1, dated 06/03/2013, quash the same and consequently direct the 1st respondent to reinstate the petitioner into the service with all service benefits, and to pass such further or other orders.



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For Petitioner : Mr.M.Kannan

For Respondents : Mr.M.Mahaboob Athiff

ORDER

R.POORNIMA,J:-

This writ petition has been filed seeking to quash the impugned order dated **23/02/2010** passed by the first respondent, as confirmed by the second respondent in appeal, vide **R.O.C.No. 298/2011/C1** dated **06/03/2013** and consequently to direct the first respondent to reinstate the petitioner into service with all consequential service and monetary benefits.

2.The brief facts of the case of the petitioner are that he was appointed as an Office Assistant on compassionate grounds in the High Court of Judicature at Madras on **17/03/1988**. Thereafter, at his request, he was transferred to the Sub Court, Periyakulam, in the Tamil Nadu Judicial Ministerial Service. Subsequently, on his request, he was transferred to the District Court, Madurai, on **15/07/1992**, he was promoted as Junior Bailiff/Process Server on **22.10.2001**.

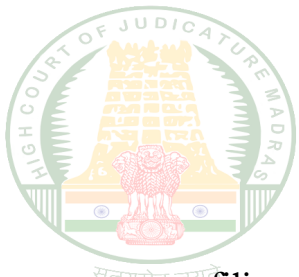


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2.1.The petitioner further submitted that he met with an accident in the year **1995**, in which he sustained head injuries. As a result of the injuries, he suffered from recurrent dizziness, giddiness, and occasional loss of consciousness, besides continuous pain in his shoulder and neck, for which he underwent continuous medical treatment. During January 2006, his health condition deteriorated. On **30/01/2006**, while proceeding to attend duty, he fell unconscious and was admitted to the hospital. Since his wife was illiterate and he was in a helpless situation, he was unable to submit a leave application in time. Even after his initial recovery, he was repeatedly hospitalised and continued to undergo treatment throughout the year 2006. Due to his prolonged illness, he could not attend duty. Thereafter, he applied for medical leave by producing medical certificates issued by the duly authorised Medical Officer of the Government Rajaji Hospital, Madurai.

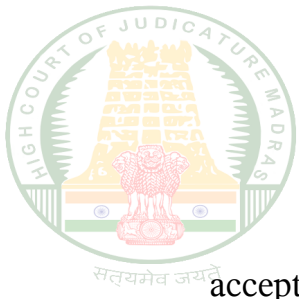
2.2.It is the further case of the petitioner that the Inspector of Police attached to Anna Nagar Police Station, Madurai, falsely implicated him as **Accused No.12 in Crime No.120 of 2006** due to prior enmity. According to the petitioner, he came to know of the registration of the said criminal case only during the last week of October 2006, nearly five months after the registration of the FIR. Thereafter, he approached this Court by



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filing **CrI.O.P(MD)No. 8079 of 2006** and obtained anticipatory bail on **17/11/2006**. After complying with all the conditions imposed by the Court, he informed the same to his superior authorities by letter, dated **22/12/2006** with a request to permit him to rejoin duty. He again submitted a representation in March 2007, pursuant to which he was allowed to rejoin duty. Thereafter, the criminal case was taken on file as **S.C No.351 of 2007** by the learned Additional Sessions Judge, Madurai. By judgment, dated **08/02/2012**, the petitioner was acquitted of all the charges. However, in the meantime, on **04/04/2007**, the Additional Sub Judge, Madurai, issued a charge memo alleging that the petitioner had remained absent from duty from **30/01/2006** without obtaining prior permission and that despite his involvement in the criminal case, he had failed to intimate the same to the competent authorities. The petitioner submitted his explanation on **29/06/2007**, denying all the charges. Since the explanation was not accepted, a fresh Enquiry Officer, namely the I Additional Sub Judge, Madurai, was appointed to conduct a departmental enquiry. Upon completion of the enquiry, the Enquiry Officer submitted a report holding that the charges had been proved. The petitioner contended that the disciplinary authority, without properly considering his explanation independently appreciating the materials available on record, mechanically



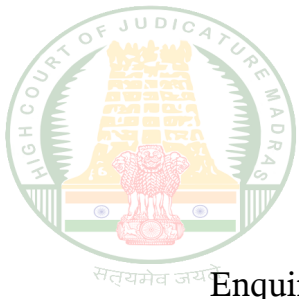
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accepted the findings of the Enquiry Officer and by the impugned order, dated **23/02/2010**, imposed the punishment of **compulsory retirement** on the ground that the charges had been proved. Aggrieved by the said order, the petitioner preferred a statutory appeal before the second respondent. However, the second respondent, by proceedings in **R.O.C No. 298/2011/C1 dated 06/03/2013** dismissed the appeal and confirmed the order of punishment. Challenging the said orders, the present writ petition has been filed.

3.The learned counsel appearing for the petitioner submitted during the course of arguments, that an enquiry conducted by the very authority that issued the charge memo violates the principles of natural justice. Therefore, the enquiry conducted by the learned Subordinate Judge, who had issued the charge memo, is contrary to the law laid down by the Constitutional Courts.

3.1.The learned counsel further submitted that the petitioner's absence from duty was not willful but was due to his ill health, as evidenced by the medical certificates issued by an authorised medical practitioner. The genuineness of the medical certificates has not been disputed either by the



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Enquiry Officer or by the first respondent. However, the Enquiry Officer erred in law by proceeding on the erroneous premise of merely determining whether the petitioner had remained absent from duty, without considering whether such absence was justified. Consequently, the findings arrived at are legally unsustainable.

3.2.The learned counsel further contended that although the pendency of a criminal case may constitute a valid ground for placing an employee under suspension, it cannot, by itself, justify the imposition of a major penalty such as compulsory retirement. The first respondent imposed the punishment solely based on the allegations contained in the charge sheet filed in the criminal case. Such action is arbitrary, unreasonable, and violative of Articles 14 and 16 of the Constitution of India.

3.3.It was further submitted that mere allegations are insufficient to establish misconduct. In the present case, no evidence was adduced or examined to establish the petitioner's involvement in the criminal case. Nevertheless, the first respondent, relying solely upon the allegations contained in the charge sheet, concluded that the second charge stood proved. Subsequently, the competent criminal court recorded a specific



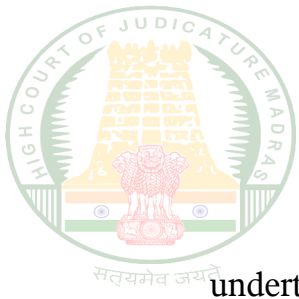
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finding that there was no evidence to establish the petitioner's guilt. The petitioner came to know of the criminal case only in October 2006. Thereafter, he applied for anticipatory bail and informed the Court of the same on 22/12/2006.

3.4.The learned counsel further submitted that before imposing the major penalty, the first respondent failed to take into consideration the petitioner's unblemished service of nearly twenty years, his family circumstances, and the proportionality of the punishment namely the gravity of the charges. Consequently, the impugned order is liable to be interfered with on the ground of **Wednesbury unreasonableness**.

3.5.It was also submitted that the petitioner belongs to a poor family and is responsible for maintaining his aged mother, mother-in-law, wife and three school-going daughters, all of whom are entirely dependent upon his salary, which is the sole source of income for the family. In view of the impugned order, the family has been facing severe financial hardship, struggling even to meet its day-to-day needs. The petitioner has also been compelled to pledge all his valuables, including his dwelling house, to sustain the family. At present, both the petitioner and his wife are



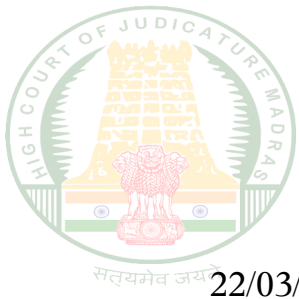
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undertaking odd jobs for their livelihood, while the petitioner's health continues to deteriorate. Considering his entire unblemished service record, the petitioner undertakes that in the event of succeeding in the present writ petition, he shall not claim any back wages. He, therefore, prayed for the writ petition by setting aside the impugned order.

4.The first respondent filed a counter affidavit disputing the claim made by the petitioner. It was stated that the petitioner remained absent from duty from 30/01/2006 to 15/03/2006 without obtaining prior permission or giving prior intimation. Pursuant to the order, dated 16/03/2006, he rejoined duty on 21/03/2006. Thereafter, he again remained absent from 22/03/2006 to 05/05/2006. Apart from the above periods, he continued to remain absent from 06/05/2006 onwards for more than six months. It was further stated that the petitioner was involved in Crime No. 120 of 2006 on the file of the Anna Nagar Police Station, Madurai City, in which he was arrayed as Accused No.12. A memo, dated 02/02/2006 was issued calling upon him to submit his explanation, to which he submitted a reply on 10/02/2006. Pending consideration of his medical leave applications, the petitioner submitted further leave applications seeking medical leave for the periods from 30/01/2006 to 15/03/2006 and from

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22/03/2006 to 05/05/2006. He was permitted to rejoin duty pursuant to the order, dated 16/03/2006 and was allowed to work upto 21/03/2006. However, he remained absent from duty from 06/05/2006 onwards. Thereafter, charges were framed against the petitioner and an Enquiry Officer was appointed to conduct the departmental enquiry. Pursuant to the directions issued, the departmental enquiry was conducted and based on the findings of the Enquiry Officer, the first respondent imposed the punishment of compulsory retirement. Aggrieved by the said order, the petitioner preferred an appeal before the second respondent. However, the appeal was also dismissed.

4.1.The first respondent further contended that the charge memo had been issued by the competent authority was perfectly valid. The Enquiry Officer was authorised by proceedings dated 18/01/2007 in ROC No.976/2006-CN to conduct the departmental enquiry against the petitioner. Having fully participated in the enquiry proceedings without raising any objection, the petitioner is estopped from subsequently challenging the authority or competence of the Enquiry Officer.



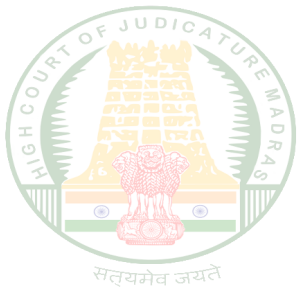
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4.2.It was further contended that the petitioner's leave applications and the medical certificates submitted by him were never accepted by the first respondent. Therefore, the Enquiry Officer was under no obligation to verify or question the authenticity of those medical certificates. The misconduct committed by the petitioner in absenting himself from duty without obtaining prior sanction or approval was grave in nature and the charges stood duly proved in the departmental enquiry.

4.3.The first respondent also submitted that it is the bounden duty of every employee to inform the employer about the registration of a criminal case against him. The petitioner was not entitled to wait until the conclusion of the criminal trial before furnishing such information. It was further contended that there is no legal prohibition against conducting departmental proceedings during the pendency of a criminal trial. Finally, it was submitted that the petitioner was not honourably acquitted in Sessions Case No.351 of 2007. Rather, he was acquitted only by extending the benefit of doubt. Therefore, such acquittal does not furnish any valid ground for reconsidering or interfering with the punishment imposed in the departmental proceedings. Therefore, the first respondent prayed for dismissal of the writ petition.

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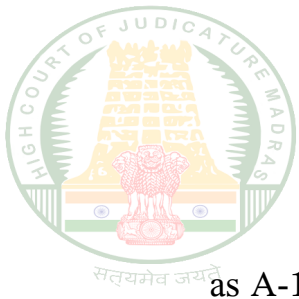
5. Heard both sides and perused the materials available on record.

6. The following charges were framed against the petitioners:-

The first charge is that “That you Thiru.S.J.Syed Rafiq Ahamed, Jr.Bailiff, Principal District Court, Madurai, now working as Office Assistant at Mahalir Neethimandram, Madurai, under deputation, has absence from his duty from 03/01/2008 without applying any leave application of prior permission if any, to the officer concerned, which commits dereliction irresponsible and slackness of the official duty and you acted in a manner of unbecoming of a Government Servant and hereby you have violated Rule 20(1) of the Tamil Nadu Government Servants' Conduct Rules, attracting disciplinary action under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.”

The second charge is that “That you, Thiru.S.J.Ayed Rafiq Ahamed, Jr. Bailiff, Principal District Court, Madurai, working as Office Assistant Mahila Court, Madurai under deputation, was absence from duty for more than six months from 06.05.2006. While perusing your explanation dated 22.12.2006, you have stated that you have been arrayed

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as A-12 in the case before the Anna Nagar P.S., Madurai and enlarged on anticipatory bail before the Honourable Bench of Madras High Court and signed before the Anna Nagar P.S. Madurai. Your explanation is unsatisfactory and attracts the provisions of the **Tamil Nadu Government Servants Conduct Rules and Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.**”

The third charge is that “That you, Thiru.S.J.Syed Rafiq Ahamed, Jr. Bailiff, Principal District Court, Madurai, now working as an office assistant at Mahila Court, Madurai under deputation. While perusing your explanation dated 22-12-2006, you have stated that you are arraigned as A-12 in Cr.No.120/06 and have got anticipatory bail in CrI.OP No. 8079/2006 dated 17.11.2006 before the Madurai Bench of Madras High Court, Madurai and signed before the Anna Nagar P.S. which all you conceal to your immediate officer where you are working and which attracts **Tamil Nadu Government Servants' Conduct Rules and Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.**”



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7.It is the contention of the petitioner that the disciplinary proceedings are vitiated on the ground that the officer who issued charge memorandum was a subsequently appointed as the Inquiry Officer, which, according to the petitioner is improper and contrary to the principle of natural justice.

8.This Court of the view that it is not fatal to the disciplinary inquiry that the officer who issued the charge memorandum was subsequently appointed as the Inquiry officer by separate proceedings. There is no statutory prohibition against such an appointment. Moreover, the delinquent employee did not raise any objection to the appointment of inquiry officer at the time of enquiry proceedings. Having participated in the enquiry without protest, the delinquent cannot subsequently challenge the validity of the enquiry on that ground alone. In the absence of proof of bias, prejudice, or violation of the principle of natural justice, the enquiry cannot be held vitiated merely because the charge issuing officer also acted as the inquiry officer.

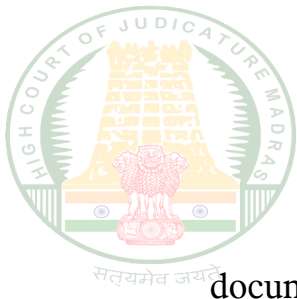
9.In so far as the charges no.1 is concerned, in the affidavit filed in support of the writ petition, the petitioner has stated that he had



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been continuously undergoing medical treatment from January 2006 onwards and had remained hospitalized throughout the year 2006. Although he had submitted certain medical certificates to explain the initial period of absence, he failed to produce any medical records in support of his subsequent absence. While claiming that he had been continuously hospitalized from 30.01.2006, he has not produced any material to establish the hospital in which he was admitted or the treatment undergone by him. Being a member of the Court establishment and, in particular, a Junior Bailiff entrusted with the duty of serving summons and ensuring the prompt attendance of witnesses, the petitioner was expected to discharge his official duties with diligence and responsibility. Instead, he remained absent from duty for nearly one year. The explanation offered for such a prolonged absence is wholly unsatisfactory. Apart from a few medical certificates, the petitioner has not produced any supporting material, such as hospital records, discharge summaries, prescriptions, medical bills, or treatment records, to establish that he was continuously undergoing medical treatment during the relevant period. He has also failed to furnish any acceptable explanation for not producing the relevant leave records and supporting medical



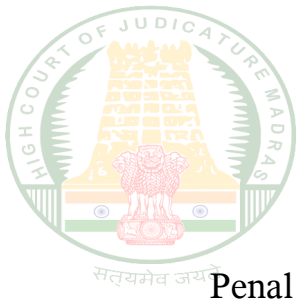
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documents. Such conduct clearly amounts to gross negligence and dereliction of duty.

10.Insofar as Charges Nos.2 and 3 are concerned, the petitioner has contended that a false criminal case had been foisted against him in Crime No.120 of 2006 and that, while undergoing medical treatment, he was also making arrangements to obtain anticipatory bail. According to him, these circumstances prevented him from attending duty. This explanation is neither satisfactory nor acceptable.

11.The petitioner has further contended that he came to know about the criminal case only in November 2006. This contention is wholly unacceptable. Though the first respondent had not initially produced the criminal records, this Court directed the learned counsel appearing for the first respondent to produce the First Information Report and the final report. The records disclose that Crime No.120 of 2006 had been registered on 28/01/2006 against the petitioner and others, wherein the petitioner was arrayed as the 12th accused for offences punishable under Sections 147, 148, 341, 342, 307, 506(ii), and 120-B of the Indian



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Penal Code. The final report was filed on 21/08/2006 by the Inspector of Police, Anna Nagar Police Station. In such circumstances, the petitioner's plea that he was unaware of the registration of the criminal case until November 2006 is wholly devoid of merit and lacks credibility. It is difficult to accept that the Investigating Agency could have completed the investigation and filed the final report without the knowledge of the petitioner. Had he genuinely believed that he had been falsely implicated, nothing prevented him from approaching the appropriate Court seeking quashing of the criminal proceedings.

12.The Enquiry Officer has also recorded a finding that the medical records produced by the petitioner were neither reliable nor sufficient to substantiate his claim of prolonged illness. The Enquiry Officer further found that the petitioner had obtained anticipatory bail from this Court on 07.11.2006, subject to the condition that he should report before the police station having jurisdiction over the area in which the District Court was situated. Despite the said condition, the petitioner failed to inform either the appointing authority or his superior officers about the pendency of the criminal case or the conditions imposed while



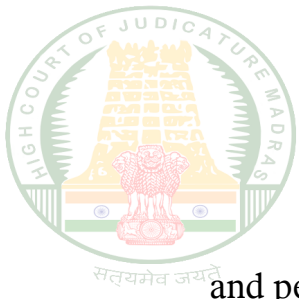
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granting anticipatory bail. It has also been found that the petitioner regularly appeared before the jurisdictional Magistrate Court in connection with the criminal proceedings. If the petitioner was genuinely incapacitated on account of ill-health, as claimed by him, it is difficult to believe that he could have regularly attended the criminal court while simultaneously remaining absent from his official duties for nearly one year. The explanation that he was medically unfit to attend duty, therefore, does not inspire confidence. The Enquiry Officer has rightly concluded that the petitioner had willfully remained absent from duty, thereby exhibiting gross negligence and dereliction of duty. The Enquiry Officer has also observed that, although the FIR had been registered as early as 28/01/2006, the petitioner deliberately suppressed the pendency of the criminal proceedings until the departmental charge memorandum was issued. No satisfactory explanation has been offered for such suppression.

13. Every member of the Court establishment is under a solemn obligation to maintain the highest standards of integrity and transparency and to promptly inform the competent authority about the registration

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and pendency of any criminal case against him. The petitioner's failure to discharge this obligation constitutes serious misconduct. The petitioner now contends that he has subsequently been acquitted in the criminal case. Such acquittal, even assuming it to be true, does not ipso facto exonerate him from the misconduct established in the departmental proceedings. The charges in the present case relate not merely to the criminal prosecution but also to his prolonged unauthorized absence from duty and his deliberate suppression of the pendency of the criminal case. Significantly, the petitioner has not even produced the judgment of acquittal before this Court. Even otherwise, suppression of material facts from the departmental authorities by itself constitutes grave misconduct warranting disciplinary action.

14.The records further reveal that from the date of registration of the FIR until the grant of anticipatory bail, the petitioner deliberately remained absent from duty and kept himself away from the workplace. The sequence of events clearly indicates that, to conceal the pendency of the criminal proceedings and avoid departmental action, the petitioner consciously chose not to disclose the registration of the criminal case



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until disciplinary proceedings were initiated against him. Such conduct is wholly unbecoming of an employee serving in the judicial establishment and amounts to grave misconduct. Since both the charges framed against the petitioner have been duly established in the departmental enquiry and the findings are supported by the materials available on record, this Court finds no perversity or procedural irregularity warranting interference.

15.Having regard to the gravity of the proved misconduct, this Court finds no merit in the writ petition, which is accordingly liable to be dismissed.

16.In the result, this writ petition is **dismissed**. No costs.

(G.R.S.J) (R.P., J.)

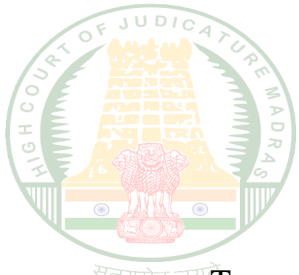
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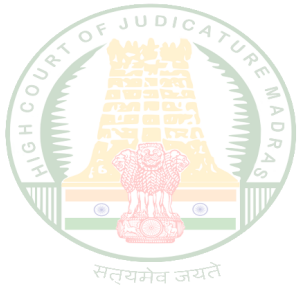
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To,
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- 1.The Principal District Judge,
Madurai.
- 2.The Registrar General
High Court of Judicature, Chennai.



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G.R.SWAMINATHAN.,J

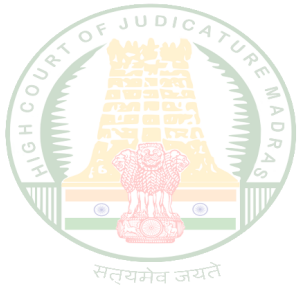
AND

R.POORNIMA, J.

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