

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.09.2017
DELIVERED ON : 02.11.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.13504 of 2009
and

M.P.No.1 of 2009

R.Umamaheswari

..Petitioner

Vs

1.The Registrar General,
High Court of Madras,
Chennai 104.

2.The Principal District Judge,
Thanjavur.

..Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records pertaining to the order of the first respondent made in order R.O.C.No.389/2008/C1, dated 07.07.2008 as modifying the punishment of dismissal to Compulsory Retirement order R.O.C.No.149/2006/A1, dated 13.09.2007 of the second respondent and quash the same and consequently, direct the second respondent to reinstate the petitioner with continuity of service and with back-wages and other attendant benefits.

For Petitioner : Mr.S.T.Varadarajulu
For Respondents : Mr.Ramachandra Moorthy
for Mr.E.K.Kumaresan

ORDER

ABDUL QUDDHOSE, J

This writ petition has been filed by the petitioner seeking for issuance of writ of certiorarified mandamus to call for the records pertaining to the order of the first respondent made in R.O.C.No.389/2008/C1, dated 07.07.2008 modifying the punishment of dismissal into compulsory retirement under the order passed by the second respondent in R.O.C.No.149/2006/A1, dated 13.09.2007 and quash the same and consequently, direct the second respondent to reinstate the petitioner with continuity of

service and back-wages and other attendant benefits.

2.The case of the petitioner is as follows:

2.1.The petitioner was selected through the Tamil Nadu Public Service Commission and she was posted as Junior Assistant in the Judicial Ministerial Service at Pattukkottai. She served there from 07.09.2000 to 12.04.2006 for about six years under three Subordinate Judges. Later on she was transferred to Thanjavur and posted as Record Clerk on 13.04.2006 in the Principal Sub Court, Thanjavur. On 18.10.2006, at about 5.15 p.m., the Principal Subordinate Judge, Mr.K.Dhakshinamoorthi, retired to his Chambers after Court work. She went to the chamber to get signature in the return petition and statements. As no one was inside in the Chambers except the Principal Subordinate Judge, she was waiting at the entrance to get permission for going inside. The Judge nodded his head to come inside. Thereafter, she went inside the Chambers and to the shock and surprise, when she showed the return petition and statements, the Judge pulled her hand. She was shocked and shouted at him and further she said that she will give a complaint to the higher authorities for such misbehavior and she came out with weeping eyes from his Chamber to report to the Principal District Judge, Thanjavur. But, she was not given permission to meet the Principal District Judge/second respondent immediately as she was informed by the Personal Assistant to the Principal District Judge that she could meet the Principal District Judge only after Ramzan. Hence, she returned to the office on the same day without giving complaint to the concerned authorities.

2.2.The Principal Subordinate Judge, Thanjavur, in order to suppress what had happened on 18.10.2006 at 05.30 p.m in his Chambers, gave a false complaint against the petitioner on 20.10.2006, which was ante dated as 18.10.2006, as if she has committed dereliction of duty by misbehaving with him and caused disturbance to his work. In the said complaint, the Principal Subordinate Judge has stated that at the time of occurrence, the steno-typist was present.

2.3.Based on the false complaint given by the Principal Subordinate Judge, Thanjavur, without conducting any enquiry, she was placed under suspension by an order dated 25.10.2006. Thereafter, by an order dated 26.10.2006, the second respondent appointed the Principal Subordinate Judge, Thanjavur as enquiry officer to enquire the complaint dated 18.10.2006.

2.4.The petitioner was surprised that the second respondent appointed the Principal Subordinate Judge, Thanjavur as enquiry officer. Therefore, the petitioner gave a representation dated 10.11.2006 pointing out the irregularity and opposed the Principal Subordinate Judge, who is the complainant from being appointed as enquiry officer. After the objection of the petitioner, the order appointing the Principal

Subordinate Judge, Thanjavur as enquiry officer was withdrawn by order dated 05.12.2006.

2.5. Thereafter, the Principal District Judge by letter dated 11.12.2006, called for explanation from the petitioner on the complaint given by the Principal Subordinate Judge, Thanjavur against her, for which, she requested the Principal District Judge to furnish a copy of the complaint given by the Principal Subordinate Judge by a letter dated 16.12.2006. After getting a copy of the complaint, she submitted her explanation on 17.01.2007 explaining in detail about the incident that had happened on 18.10.2006.

2.6. Despite the explanation, a charge memo dated 22.02.2007 was issued to the petitioner by the Principal District Judge and Mr. N. Sathish Kumar, I Additional District and Sessions Judge, (P.C.R.), Thanjavur was appointed as enquiry officer. The petitioner sent another representation dated 17.04.2007 to the enquiry officer requesting permission to engage an advocate. Though permission was granted, the petitioner could not get the advocate at Thanjavur to defend her case. Hence, she decided to approach the advocate practicing in the High Court to get assistance. But, due to financial constraints, she could not engage an advocate to defend her case as she was also not paid the subsistence allowance.

2.7. In the meanwhile, the enquiry officer sent a notice to the petitioner to attend enquiry on 3.5.2007. As she could not engage the counsel by then, she sought time to attend the enquiry. Hence, enquiry was adjourned to 10.05.2007. Again, she sent another letter dated 8.5.2007 seeking some more time for engaging advocate. Hence, the enquiry was again adjourned to 17.05.2007. By one more letter dated 15.5.2007, she sought further time to attend enquiry. But, the enquiry was conducted on 17.05.2007 and the petitioner was set as exparte. The complainant/Principal Subordinate Judge, Thanjavur was examined as P.W.1 and Exs.P.1 to P.9 were marked and the enquiry was adjourned to 24.05.2007 for examination of further witnesses on the side of the prosecution.

2.8. According to the petitioner, the adjournment date namely, 24.05.2007 was not informed to her and the depositions and the documents filed in the enquiry were also not furnished to her. However, the enquiry officer gave his findings vide proceedings dated 04.06.2007 holding that all the charges against the petitioner were proved by the prosecution.

3. The Principal District Judge by his letter dated 18.06.2007 enclosing a copy of the enquiry report dated 4.6.2007, asked the petitioner to give explanation on the findings given by the enquiry officer. Accordingly, the petitioner submitted her explanation on 20.06.2007 and 23.06.2007 and requested the Principal District Judge to stop further proceedings on the charge memo. However, the Principal District Judge passed the order of dismissal on 13.09.2007.

Thereafter, the petitioner preferred an appeal in October 2007. As no order was passed in the said appeal for a long time, the petitioner filed W.P.No.11183 of 2008 to dispose of the appeal. This Court by order dated 29.04.2008 disposed of the said writ petition directing the respondents to decide the appeal on merits. Subsequent to the said order, the first respondent passed the impugned order dated 07.07.2008 modifying the punishment of dismissal to compulsory retirement. Aggrieved by the orders passed by the first and second respondents dated 07.07.2008 and 13.09.2007 respectively, the present writ petition has been filed by the petitioner on the following grounds:

a)The enquiry was not conducted in a fair and proper manner and it was an ex parte enquiry.

b)No subsistence allowance was paid from the date of her suspension i.e. on 25.10.2006 till the date of her dismissal i.e. on 13.09.2007.

c)The evidence of P.Ws.1 to P.W.5 is not a legal evidence as P.W.1 is the complainant and P.Ws.2 to P.W.5 are the subordinate staff of P.W.1 and they are all interested witnesses. The evidence of interested witnesses and the evidence of accomplice cannot be relied upon.

d)The finding of the enquiry officer is perverse. P.W.2 to P.W.5 have not spoken about the conversation that transpired between the Principal Subordinate Judge and the petitioner. However, P.W.1 did not say what abusive words have been uttered by the petitioner.

e)The order passed by the appellate authority is not a speaking order and no reason has been stated by the appellate authority for ordering compulsory retirement instead of dismissal.

f)Rule 20 of the Tamil Nadu Government Servants Conduct Rules speaks about insubordination. There is no evidence for insubordination. The conclusion arrived at by the second respondent without giving any opportunity to the petitioner and based on the ex parte findings, is illegal.

g)Fundamental Rule 56 alone speaks about compulsory retirement. Except for the provisions found in Fundamental Rule 56, the order of compulsory retirement cannot be given. The first respondent, without any basis, modified the punishment from dismissal to compulsory retirement instead of ordering fresh enquiry as the findings given by the enquiry officer is based on ex parte proceedings.

h)The first respondent failed to see when the complainant Judicial Officer by memo dated 30.10.2006 improved the complaint alleging that the petitioner abused the Principal Subordinate Judge, Thanjavur in a filthy language and in a derogatory manner. He further alleged that at the time of occurrence the steno-typist was present in chamber which was not given in his original complaint. He also suppressed the

misbehaviour committed by him on the petitioner.

i)The appellate authority failed to notice that the order of dismissal is disproportionate to the gravity of misconduct. There is no legal evidence to show that the petitioner misbehaved with the superiors. It is unusual and unheard of that in a male dominating society, a lady misbehaving with a male superior officer.

j)The petitioner had put in seven years of continuous service and she had unblemished record of service during her entire career. The disciplinary authority and the appellate authority failed to consider the unblemished record of service of the petitioner before imposing the major penalty of dismissal and also while modifying the punishment to compulsory retirement.

k)There is no legal and acceptable evidence to prove the charges falsely levelled against the petitioner. However, the enquiry officer without any basis held that the charges were proved.

l)She was a widow at the time of incident and the complainant Judicial Officer who misbehaved with her and to suppress his act, he has given a false complaint against her.

m)The explanation submitted by the petitioner for the charges framed against her was never considered by the enquiry officer even though it was placed before him for his due consideration;

n)It was impossible that the complainant Judicial Officer should have heard the abuse made by the petitioner against him outside his chambers;

o)The explanation given in the enquiry report for non payment of the subsistence allowance is untenable. There is no evidence let in by the prosecution for the non payment of the subsistence allowance to the petitioner. The non payment of the subsistence allowance is a valid ground for quashing the dismissal order passed against the petitioner.

p)According to the petitioner, the order of the second respondent dismissing the petitioner from service based on the ex-parte finding of the enquiry officer and the order of the first respondent modifying the punishment of dismissal to compulsory retirement, are ex facie illegal and the same has to be set aside.

4.The first respondent has not filed a separate counter affidavit. But, the learned counsel for respondents submits that he adopts the counter affidavit filed by the second respondent for the first respondent also.

4.1.The second respondent in his counter affidavit stated that the affidavit filed in support of the writ petition is devoid of material particulars and the writ petition is not maintainable either in law or on merits.

4.2.It is further stated in the counter affidavit that the petitioner was working as Junior Assistant in the Principal Sub Court and she was placed in charge of the record branch of the Principal Sub Court, Thanjavur.

4.3. In paragraph No.3 of the counter affidavit, the second respondent extracted the Demi Official letter of the Principal Subordinate Judge, Thanjavur dated 18.10.2006, alleging the complaint against the petitioner, which reads as follows:

"I submit to state the following about the untoward incident took place in my chamber. Today on 18.10.2006 at 5.30 p.m., after the completion of the court work, I was in the Judge's chamber and engaged in preparing of notes for a case. While so, the Record Junior Assistant, by name Tmt.R.Umamaheswari, have entered in to my chamber without any permission. On noticed the sudden entry of the said staff, I have questioned her entry and also questioned about the dereliction of duty committed by her. The said staff suddenly got wild and shouted towards me and also misbehaved to me and thereby caused disturbance to my work.

When I tried to pacify the staff she proclaimed that she is going to send a false complaint against me to the higher ups. Thereafter, Tmt. R. Umamaheswari, directly went to the office of this Court and there also shouted against me and also used unparliamentarily words about me. The incident was witnessed by the staff of this Court in particular: the Sheristadar and Stenotypist of this courts are witnesses to the occurrence. The behaviour of this staff amounts to serious misconduct and unbecoming to be a Government Servant.

Hence, I humbly request you to take necessary action against the Record Junior Assistant, Tmt. R.Umamaheswari of this Court and pending enquiry she may be placed under suspension by providing a substitute to this office.

Any inconvenience caused in this regard may kindly be regretted."

4.4. On the basis of the demi official letter, the Principal District Judge, Thanjavur placed the petitioner under suspension by his order, dated 26.10.2006 and appointed the Principal Subordinate Judge, Thanjavur as enquiry officer to enquire into the complaint given by the Principal Subordinate Judge on 18.10.2006 against the petitioner. Since the petitioner objected to the Principal Subordinate Judge, who is the complainant from being appointed as the enquiry officer, the Principal District Judge cancelled the appointment of the Principal Subordinate Judge as the enquiry officer and in his place one Mr.N.Sathishkumar, I Additional District and Sessions Judge, Thanjavur appointed as the enquiry officer and Tmt.K.Alli, Judicial Magistrate No.III, Thanjavur as the Presenting Officer to enquire into the complaint given by the Principal Subordinate Judge, Thanjavur against the petitioner. The Principal District Judge vide memorandum dated 11.12.2006

called for explanation from the petitioner on the basis of the demi official letter of the Principal Subordinate Judge, Thanjavur dated 18.10.2006. The petitioner had also submitted her explanation on 17.01.2007 to the Principal District Judge for the memorandum dated 11.12.2006. Since the explanation of the petitioner was found to be unsatisfactory, charges were framed against the petitioner by the Principal District Judge on 22.2.2007.

4.5.The enquiry officer, appointed by the Principal District Judge submitted his final report dated 05.06.2009 wherein, he held that the charges against the petitioner have been proved. The petitioner was absent throughout the enquiry despite several opportunities were given to her to submit her defence.

4.6.According to the respondents, it is the duty of the petitioner to be present before the enquiry forum and establish the averments made in the writ petition. The respondents further state that they have followed the due process of law while arriving at the conclusion that the charges levelled against the petitioner have been proved.

4.7.According to the respondents, the petitioner ought to have presented herself before the enquiry officer to establish her allegations that the demi official letter of the Principal Subordinate Judge, Thanjavur dated 18.10.2006 is an ante dated letter whereas the correct date of the complaint was on 20.10.2006. Despite giving several opportunities, the petitioner failed to defend her case before the enquiry officer.

4.8.The respondents admitted that the petitioner was placed under suspension without preliminary enquiry. The suspension was necessitated on the strength of the demi official letter of the Principal Subordinate Judge, Thanjavur. After considering the indifferent behaviour of the petitioner, the then Principal District Judge placed the petitioner under suspension with effect from 25.10.2006. The second respondent also admits that the petitioner was not paid the subsistence allowance during the period of her suspension as she had not produced necessary non-employment certificate required under Fundamental Rule 53(2), even though she was asked to furnish the same.

4.9.The second respondent also admits that the petitioner was set exparte in the enquiry proceedings on 17.5.2017 and the complainant Judicial Officer was examined as P.W.1 and Exs.P.1 to P.9 were also marked during oral evidence. The second respondent denied the allegations of the petitioner that the enquiry officer had hurriedly conducted the enquiry and examined the witnesses.

5.According to the respondents, several opportunities were given to the petitioner to defend her case. Despite giving several opportunities, the petitioner failed to appear before the enquiry officer and consequently, she was set as exparte on

17.05.2007. The enquiry officer gave his finding on 4.6.2007 against the petitioner holding that all the charges levelled against her by the second respondent have been proved. The second respondent has also stated in his counter affidavit that enquiry was conducted in a fair and proper manner. In spite of appearing before the enquiry officer, the petitioner sent letters raising untenable grounds. The petitioner could have very well appeared before the enquiry officer and questioned the legality of the evidence adduced by P.Ws.1 to 5 at the time of enquiry. But, the petitioner remained absent throughout the enquiry.

6.As the respondents have followed the due process of law, dismissal of the petitioner from service which was subsequently modified into compulsory retirement is sustainable in law. Hence, there is no merit in the writ petition and the same is liable to be dismissed.

7.Heard Mr.S.T.Varadarajulu, learned counsel for the petitioner and Mr.Ramachandramoorthy for Mr.E.K.Kumaresan, learned counsel for the respondents.

8.The learned counsel for the petitioner drew our attention to the following documents:

- a)Complaint dated 18.10.2006 given by the Principal Subordinate Judge against the petitioner.
- b)Explanation dated 17.01.2007 given by the petitioner to the memo issued by the Principal District Judge dated 09.01.2007.
- c)Charge memo dated 22.02.2007.
- d)Enquiry report dated 04.06.2007 submitted by the I Additional District Judge against the petitioner.
- e)Memorandum dated 08.06.2007 issued by the Principal District Judge to the petitioner to submit explanation to the enquiry report.
- f)Explanation dated 20.06.2007 to the memorandum dated 08.06.2007 issued by the Principal District Judge.
- g)Dismissal order passed by the Principal District Judge.
- h)Appeal submitted to the first respondent by the petitioner.
- i)Order dated 29.04.2008 passed in W.P.No.1183 of 2008
- j)Impugned order dated 07.07.2008 passed by the first respondent.

9.The learned counsel for the petitioner submitted that the dismissal order passed by the second respondent based on the exparte enquiry report dated 04.06.2007 and modified into compulsory retirement by the first respondent is illegal, arbitrary and opposed to the Articles 14 and 16 of the Constitution of India. He further submitted that the enquiry officer did not give sufficient opportunity for the petitioner

to defend her case and he has hurriedly conducted the enquiry in the absence of the petitioner. He further submitted that the second respondent without applying his mind independently has approved the enquiry report in toto and passed the order of dismissal against the petitioner. The appellate authority, namely, the first respondent has also not applied his mind and by a non speaking order has modified the dismissal order into compulsory retirement. According to the learned counsel for the petitioner, the allegations made by the petitioner against the complainant Judicial Officer are serious in nature and amounts to sexual harassment were not considered by the enquiry officer or by the appellate authority even though written explanations dated 17.01.2007 and 20.06.2007 were placed on record by the petitioner. The learned counsel further submitted that the petitioner was not paid subsistence allowance during the period of her suspension. Hence, according to the learned counsel for the petitioner, the entire enquiry process was not conducted in a fair and proper manner and therefore, he submitted that the writ petition will have to be allowed as prayed for.

10. According to the learned counsel for the respondents, the petitioner did not appear before the enquiry officer despite several notices issued to her requesting her to appear on the hearing dates. The learned counsel submitted that the enquiry officer fixed the hearings on 03.05.2007, 10.05.2007, 17.05.2007 and 24.05.2007. For all those hearings, the petitioner did not appear before the enquiry officer despite knowledge of the same and the hearing was adjourned by the enquiry officer only at her instance. Since the petitioner failed to appear on 17.05.2007, she was set exparte by the enquiry officer and the prosecution witnesses were examined on 24.05.2007. Further, the enquiry report was also submitted by the enquiry officer only on 04.06.2007. Till the date of the enquiry report, the petitioner did not defend her case either by filing her written statement or by filing an application to set aside the exparte order dated 17.05.2007 before the enquiry officer. According to the learned counsel for the respondents, sufficient opportunity was given to the petitioner to defend her case before the enquiry officer. Further, the petitioner has not lodged a separate complaint against the complainant Judicial Officer for the allegations made against him in her explanations dated 17.01.2007 and 20.06.2007. Therefore, without there being a formal complaint, the enquiry officer could not have passed any adverse order against the complainant Judicial Officer. According to the learned counsel, the findings of the enquiry officer and the consequent memorandum dated 08.06.2007 dismissing the petitioner from service and the order dated 07.07.2008 passed by the appellate authority namely, the first respondent modifying the dismissal into compulsory retirement is in accordance with law and there is no necessity for interference by this Court.

11. After perusing the records and after hearing the submissions of the learned counsel on both sides, we observe the following:-

(i) In his complaint through his demi official letter, dated 18.10.2006 to the Principal District Judge, Thanjavur, the Principal Subordinate Judge, Thanjavur has alleged that the misconduct and misbehavior of the petitioner on 18.10.2006 at 5.30 p.m. inside his Chambers was witnessed by the staff of his Court in particular, the Sheristadar and the steno-typist. The Sheristadar, Mr.B.Mani and the steno-typist, Tmt.S.Jeyalalitha who were examined as P.W.2 and P.W.4 by the prosecution have supported the statement of the complainant Judicial Officer. Apart from examining the Sheristadar and steno-typist, the complainant Judicial Officer, was examined as P.W.1, Thiru.P.Vasudevan, Head Clerk, Principal Sub Court at Thanjavur was examined as P.W.3 and Tmt.M.Geetha was examined as P.W.5 on the prosecution side. All of them have alleged misbehavior on the part of the petitioner in their oral evidence. Despite several opportunities given by the Enquiry Officer, the petitioner did not participate in the enquiry proceedings and did not cross examine the prosecution witnesses nor did she let in any oral evidence on her side.

(ii) The complaint was lodged by the complainant Judicial Officer on 18.10.2006 i.e. on the same date of the incident. But for the first time in her explanation dated 17.01.2007 to the second respondent, the petitioner appears to have brought on record the fact that the complainant Judicial Officer had misbehaved with her. In her explanation dated 17.01.2007, the petitioner has not made any sexual harassment allegation against the complainant Judicial Officer. The explanation dated 17.01.2007 to the Principal District Judge, Thanjavur is extracted hereunder:-

I-Stage:- The C.O., retired to his chamber by about 5.15 P.M., on 18.10.2006. The Process Server on duty, informed the Sarishtadar, Thiru B.Mani that the C.O. had retired to his chamber. The averments of the C.O., that he was engaged in preparing notes for a case, at that time are denied. Between 5.15 P.M. to 5.30 P.M. On 18.10.2006, nobody was present in his chamber. I submit that the Steno-Typist, Tmt.S.Jayalalitha, or the Typist Tmt.M.Geetha, or the Sarishtadar Thiru B.Mani, were not present, in his chamber, during the time stated above.

II-Stage:- I went near the door step of his chamber, and kept standing, waiting for his permission to go inside. The C.O., nodded his head to come in. I went in the chamber, in order to get his signature in the Return Petition and statements.

Commentary on his scene:

(A) Assuming for a moment, though not conceding, if I entered the chamber of the C.O., without his permission for getting his signature in the relevant

papers, did my "behaviour" mean "dereliction of duty"? Law lexicon and English Dictionaries give the meaning of the term dereliction as (1) abandonment and (2) intentional or conscious neglect. I submit that I had not neglected or abandoned my duties, entrusted to me.

(B) Looking at the case from another angle, if the C.O., questioned my entry in his room, without his permission, can we ever imagine that a rational person would turn violent, both in expressions and deeds?

III-Stage: What happened at the third stage?

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Let this be a suspense for the present.

The occurrences at the third stage will be expressed later should an inquiry be ordered.

IV-Stage: The C.O., informed the P.D.J that I was "wild" "misbehaved" and I "shouted". I submit that my conversation with the C.O., lasted only for about twenty seconds and I left his chamber, instantly. I came weeping to the Personal Assistant to the P.D.J. namely, A.Sheik Mohamed Ali and I wanted his immediate permission to meet the P.D.J. I informed A.Sheik Mohamed Ali that my meeting and interview with the P.D.J. was urgent and essential as I wanted to prefer a complaint against the C.O. The P.A., saw me weeping, but said, that I could give the complaint against the C.O., only after Ramzan, as the P.D.J. would not like to receive complaints during that period. (Ramzan festival was celebrated on 24.10.2006 and I was advised to wait till 25.10.2006). As a matter of fact, had I been permitted to meet the P.D.J by about 5.25 P.M., on 18.10.2006, I would not have been subjected to this kind of humiliation and persecution.

But, I submit, in all earnestness, could I meet the P.D.J., on 18.10.2006 itself, overthrowing the objections of the P.A. to the P.D.J., I believe, three things would have happened:-

- 1) would have been shunned by the P.D.J.
- 2) The P.A., to P.D.J., would have influenced the P.D.J. against me and
- 3) The P.D.J. would definitely presume that I would do everything in impetuosity without the sanction of my superior officers.

I am pained to state that a woman serving in the midst of men would not be safe, even in this 21st century.

V-Stage: My attempt to meet the P.D.J. ended in vain. Was there any complaint from the P.A. to P.D.J., that I shouted at or before the said Officer, when my request to meet the P.D.J., that I shouted at or before the said officer, when my request to meet the P.D.J. was

turned down?

After coming from the room of the P.A. to P.D.J. Sarishtadar Thiru B.Mani, Head Clerk Thiru P.Vasudevan asked me what had happened in the chamber of the P.D.J. to meet the P.D.J. and I could give the complaint against the C.O., only after Ramzan, namely after 24.10.2006. This matter would have been immediately communicated to the C.O., which resulted in the drafting of the complaint, hurriedly, against me.

VI-Stage: The expressions of the C.O., that he "tried to pacify" me require deep cogitation of events. If the complaint of the C.O., were true, why should he "pacify" me? Had I behaved "widly", "shouted" unparliamentarily and "misbehaved" with him, why should he "pacify" me? The expressions of the C.O., about his pacifying me, are false. If it were true, the C.O., would not have preferred a complaint against me to the P.D.J. I believe the P.D.J. will weigh the complaint of the C.O., on the legal scale, as to what would have happened at III stage.. the matter of which is kept in suspense.

VII-Stage: The C.O. States that I would send false complaint against him to the higher-ups. I submit that, till this day, I have not given any complaint against the C.O., to the P.D.J. or the Hon'ble Chief Justice of Madras High Court. When I was not even able to meet the immediate superior office namely, P.D.J., in time... at the crucial time... can it be imaginable that I would have proclaimed to complain about the C.O., to the higher-ups? The C.O., is caught on every sentence of his complaint, which would prove my faultlessness and sinlessness. Now, it is for the P.D.J., to decide, on the pleadings of the C.O., whether his complaint is true, or foisted under frustration.

VIII-Stage: The C.O. States that I used unparliamentary words uttered by me? In the Principal Sub Court's Office room there are several ministerial staff. Why did the C.O., choose my Sarishtadar Thiru B. Mani, Head Clerk, Thiru P.Vasudevan and Typist Tmt.M.Geetha, as found in his memorandum dated 30.10.2006? Does it mean that the rest of the staff of the Court took to their heels from the office without doing any work, unable to tolerate my mourning lamentation?

XI-Stage: I attended my duty from 19.10.2006 to 25.10.2006. If his expressions were true, the C.O., ought to have or would have issued me a charge memo, on the spot itself calling for my instantaneous explanation on 18.10.2006. Why should the C.O., wait for 2 days to send a complaint to the P.D.J? Besides, the C.O., recommended for my suspension from service, for a

contemplated inquiry. The complaint was received by the P.D.J. on 20.10.2006 and the P.D.J. passed orders on 26.10.2006 suspending me from service.

X-Stage: I submit that the P.D.J. without enquiring me, as to what had happened in the chamber of the C.O., suspended me from service, five days later. Should the P.D.J.... being the Head of the District Judicial Administration .. make a hearing with me .. a subordinate in the same court premises.. before passing the impugned order of suspension, the truthful episode would have been brought to light, lest should I suffer from agony and persecution.

5.I submit that I have not committed any wrong, mistake, delinquency, or any offences as alleged by the C.O.

6.I appeal to the P.D.J that it is not safe for me to serve under the C.O., any longer. I may be transferred to any other court, of your jurisdiction.

7.I submit that I have not been paid with my subsistence allowance from November, 2006 to January 2007 for three months, which shows that I am forced to live under financial perdition. On this ground itself, it may be held that the complaint is intended for my victimization and the proposed inquiry is vitiated.

8.Last, with heart heaviness, I am to submit, whether my suspension is necessary to meet the ends of justice? I submit that the following legal precepts and rulings have not been followed in my case

(a)The complaint of the C.O., does not involve public interest;

(b)I have not misappropriated government money;

(c)Suspension is not meant for ill-treatment, humiliation and vindictiveness;

(d)Suspension should not be a sword to attack the Government servant; it should not be a weapon of oppression in the hands of the superior officers;

(e)Order of suspension should be a surgeon's knife to save the Administration, Constitution and the People and

(f)Suspension cannot be ordered when the case against the Government servant is dubious, ambiguous, trivial and unworthy of investigation.

9.I therefore, pray that the Hon'ble Principal District Judge may be pleased to hold that the complaint of the C.O., is unreliable and that I am innocent. I may be reinstated in service with regularization of service with attendant monetary benefits forthwith."

(iii)The Principal District Judge, rejected the explanation dated 17.01.2007 submitted by the petitioner on the ground that it was unsatisfactory and he framed the following

charge on 22.02.2007 against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

"CHARGE:

That you, Tmt.R.Umamaheswari, Junior Assistant, Principal Subordinate Judge's Court, Thanjavur (now under suspension) while working as Junior Assistant, on 18.10.2006 at about 5.30 P.M. While the Principal Subordinate Judge, was preparing notes in his chamber, you entered into the chamber of the Principal Subordinate Judge without any prior permission of the Judge and when the Judge questioned your unauthorized entry and the dereliction of duty committed by you, you suddenly got wild and shouted against the Judge and misbehaved with the Judge and thereby caused disturbance to the work of learned Subordinate Judge, Thanjavur and you have threatened the Judge that you will send a false complaint against the Principal Subordinate Judge Thanjavur to the higher forum and thereafter, directly went to the office of the Principal Sub-Court and there also shouted against the Judge using unparliamentary words against him in the midst of the staff member and thereby caused disturbance to the day today discharge of the Judicial duty of the Principal Subordinate Judge, Thanjavur and acted in a disobedient manner, unbecoming a Government Servant and thereby you have violated section 20 of Tamil Nadu Government Servant's Conduct rule read with 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules."

(iv) In the said proceedings dated 22.02.2007, the petitioner was directed to submit within fifteen days from the date of receipt of the said proceedings, her written statement of defence along with her answers to the questionnaire sent therewith and also to state whether she desires an oral inquiry or to be heard in person or both.

(v) After the receipt of the said charge memo dated 22.02.2007, the petitioner submitted a petition dated 17.03.2007, wherein she has submitted the following:

"I submit that you have given your opinion about my explanation, as being not satisfactory. I want to know whether you have examined the complainant, as well as any other staff of the Principal Sub Court at Thanjavur. I am to state in this connection that you are making surging developments of accusations, in the case from one correspondence to another. The complainant informed you that I shouted unparliamentarily and I was wild and misbehaved. The copy of the correspondence given to me did not disclose about the expressions alleged to have been used by me. But, I am constrained to point out,

that in your memorandum D.No.9470/06/A1, dated 11.12.2006, you have made an allegation against me that I used "filthy language". What were the filthy language used by me? Who gave these expressions to you? Did the complainant or any staff of the Principal Sub Court, Thanjavur gave you such information? Have you examined the complainant and any staff of the Principal Sub Court, Thanjavur and got their depositions? These particulars are required before answering to the queries raised by you.

The progress of the case that you are making, is contrary to the provisions of Administrative Law and Tamil Nadu Civil Services (Classification, Control and Appeals) Rules. The procedure adopted by you is not a legally acceptable one, because, the complainant and his witnesses should be examined in my presence. Therefore, the charge memo issued by is void.

I am to point out that till this day, I am not paid with the subsistence allowance for my survival, that is, for the past four months.

The above said particulars are required, for complying with the orders of the Principal District Judge, cited."

(vi) On receipt of the said petition dated 17.03.2007 of the petitioner, the Principal District Judge, Thanjavur in his proceedings in A.No.149/2006/A1 dated 05.04.2007 directed the Principal Subordinate Judge, Thanjavur to take steps immediately for the disbursement of the subsistence allowance to the petitioner following Rule 53(1)(2) of the F.R.

(vii) The petitioner has not furnished a non employment certificate to entitle her for subsistence allowance during the period of suspension. The Principal Subordinate Judge, Thanjavur in his reply De.No.510/2007, dated 09.04.2007 to the memorandum dated 05.04.2007 in A.No.149/2006/A1 of the Principal District Judge, Thanjavur has stated that though the petitioner was advised to furnish a non employment certificate as required under F.R.53(2), she has declined to furnish the same. The Principal District Judge, Thanjavur issued another memorandum dated 21.05.2007 in A.No.149/2006/A1 to the petitioner informing her that she has been dragging on the proceedings before the enquiry officer by not appearing on the hearing dates and the non payment of the subsistence allowance is only due to her failure to produce the non employment certificate.

(viii) The Principal District Judge, Thanjavur, in his proceedings in A.No.149/2006/A1 dated 05.04.2007 appointed Thiru N.Sathish Kumar, I Additional District and Sessions Judge (PCR), Thanjavur as Inquiry Officer to conduct the oral inquiry against the petitioner and a copy of the said proceedings was sent to the petitioner by registered post with acknowledgment due. In the same proceedings, the Principal District Judge, Thanjavur also appointed Tmt.S.Alli, Judicial Magistrate No.III, Thanjavur as

Presenting Officer to assist the conduct of the oral inquiry against the petitioner. The Principal District Judge, Thanjavur also requested the inquiry officer Thiru N.Sathish Kumar, I Additional District and Sessions Judge (PCR), Thanjavur to follow the procedures laid down in the Hand Book of the Disciplinary Procedures and adhere to the time schedule of 60 working days and complete the oral inquiry within the stipulated time of 60 working days.

(ix) The petitioner failed to file her written statement to the charge memo dated 22.02.2007 issued by the Principal District Judge, Thanjavur against her. Instead of filing her written statement, the petitioner submitted another letter dated 17.04.2007 to the Principal District Judge Thanjavur as well as as the Inquiry Officer, which reads as follows:

1. I am to state that the District Court's Proceedings cited in the reference, has been received by me on 10.04.2007.

2. The departmental proceedings against me were started from 20.10.2006 and the Principal District Judge, Thanjavur appointed the Principal Subordinate Judge, Thanjavur to inquire into the matter. When I represented that the Principal Subordinate Judge, Thanjavur being a complainant cannot sit as an Inquiry Officer, the Principal District Judge, Thanjavur withdrew his orders in his proceedings in A.No.149/A1, dated 05.12.2006 and he wanted to conduct the inquiry by himself. I made my explanation to the Principal District Judge, Thanjavur on 17.1.2007. The Principal District Judge, Thanjavur has sent his order through the proceedings in R.O.C.No.149/2006 dated 22.02.2007 along with the questionnaire to be returned, duly filled up, for which I have sent a reply on 17.03.2007, explaining the developments of accusations by the Principal District Judge, Thanjavur. Appreciating the ungenerous involvement of the judicial officers, viz., the Principal Subordinate Judge, Thanjavur, and the Principal District Judge, Thanjavur, the matter has been referred to third Judge viz., the I Additional District Judge, Thanjavur viz., No.2 herein.

Since my matter revolves round, the judicial officers, who are knowing personages of law, I require the assistance of an advocate, to conduct the case in the departmental inquiry. Seeking the assistance of an advocate in my case, is per-se, just and legal, reasonable and justifiable. I request you to grant me necessary sanction for my engaging and advocate of my choice for the prosecution of the case.

I send herewith to I Additional District Judge, Thanjavur No.2 herein, the copies of my explanation dated 17.01.2007 and the reply dated 17.03.2007 addressed to the Principal District Judge, Thanjavur

for kind perusal.

I submit, since I have been subjected to harassment from 26.10.2006 to this day, for a continuous period of five months and odd, I feel necessary to approach the Madras High Court for getting my reliefs. I crave leave of you to grant me necessary sanction to move the Madras High Court.

(x)The enquiry officer, the Additional District and Sessions Judge (PCR), Thanjavur in his memorandum dated 26.04.2007 has accorded necessary permission to the petitioner for engaging an advocate of her choice to defend herself in the oral enquiry. Further, the enquiry officer in his memorandum dated 26.04.2007, directed the petitioner to attend the oral hearing before him at 3.00 p.m on 03.05.2007. The petitioner by her letter dated 01.05.2007 addressed to the Principal District Judge, Thanjavur and the enquiry officer has submitted that unless her prayer for moving the High Court is granted, the permission granted by the enquiry officer for engaging an advocate of her choice will become ineffective and impractical. On receipt of the letter dated 01.05.2007 from the petitioner, the enquiry officer postponed the hearing from 03.05.2007 to 10.05.2007 but informed the petitioner by his memorandum dated 04.05.2007 that her request for moving the High Court for engaging an advocate will have to be referred to the appointing authority namely, the Principal District Judge, Thanjavur.

(xi)The Principal District Judge, Thanjavur in his proceedings in A.No.149/2006/A1 dated 30.04.2007 informed the petitioner that for the purpose of filing a writ by an individual, the permission of Head Office is not at all necessary and therefore, her request was not considered.

(xii)The petitioner made another representation by her letter dated 18.05.2007, which reads as follows:

"1.I acknowledged the receipt of the letters cited in the reference.

2.In the letter of the Principal District Judge, I am informed that I need not require the permission of the head office for filing a writ in the High Court. In my letter dated I have prayed you, to grant me necessary sanction to move the High Court. I have also requested to grant me necessary sanction for my engaging an Advocate for the prosecution of the case.

3.In the District Court's proceeding R.O.C.Nos.149/2006/A1 dated 25.10.2006, the Principal District Judge, Thanjavur has restrained my movement from Thanjavur. That is during the period of my suspension, I should be at Thanjavur and that I should not leave the headquarters without obtaining prior permission of the authority concerned.

4.Since I am granted permission in memorandum in

D.No.677/2007, dated 26.04.2007 of the I Additional District and Sessions Judge (PCR), Thanjavur to engage an Advocate, who knows Administrative Law, I must go to Chennai to engage a Senior Counsel or an Advocate of distinction to protect me from the alleged charges of the Principal Subordinate Judge, Thanjavur. Unless I am permitted by the authorities concerned, relaxing the injunction order against me .. I cannot go to Chennai to engage an Advocate and to prefer an appeal to the Hon'ble Registrar of the High Court or to file a writ in the High Court, if necessary.

5. In these circumstances, I request that the injunction order against me restraining my movement from Thanjavur may be vacated forthwith.

I am pained to state, even though this letter that I am not favoured with my subsistence allowance for the past six months."

(xiii) The petitioner after sending her letter dated 08.05.2007 to the Principal District Judge and the enquiry officer did not appear before the enquiry officer for the hearing on 10.05.2007. The Principal District Judge, Thanjavur in his memorandum in A.No.149/2006/A1, dated 11.05.2007 addressed to the petitioner requested her to furnish the following particulars to permit her to leave the Head quarters.

a) Number of days she required and

b) her probable days of stay at Chennai.

(xiv) According to the Principal District Judge in his order dated 13.09.2007 in R.O.C.No.149/2006/A1, the petitioner did not furnish the require particulars sought for by him in order to permit the petitioner to leave the headquarters and go over to Chennai.

(xv) Since the petitioner failed to appear before the enquiry officer even on 10.05.2007, the enquiry officer postponed the hearing to 17.05.2007 and informed the petitioner that if she once again fails to appear on 17.05.2007 she will be set exparte.

(xvi) The petitioner on receiving the memorandum dated 11.05.2007 from the enquiry officer sent a reply dated 15.05.2007 informing the enquiry officer that she can go to Chennai only after getting financial assistance from any of the banking institutions or private parties as she will have to stay at Chennai for a period of at least four weeks for engaging and instructing a Senior Counsel. She also reiterated that she has not been paid the subsistence allowance for the past six months in spite of several representations. She has also confirmed in her reply dated 15.05.2007 referred to supra that she will not be able to appear before the enquiry officer on 17.05.2007 without her counsel. She also cautioned the enquiry officer from setting her exparte on 17.05.2007 and his hastiness in concluding the enquiry. She wanted the observations made by the enquiry officer that in the event of her failure to appear on

17.05.2007, she will be set exparte. The petitioner was once again absent on 17.05.2007 before the enquiry officer and she was set exparte on that day. The Principal District Judge, Thanjavur issued another memorandum dated 21.05.2007 in A.No.149/2006/A1 to the petitioner informing her that she has been dragging on the proceedings before the enquiry officer by not appearing on the hearing dates.

(xvii)The enquiry officer after setting the petitioner exparte on 17.05.2007 postponed the hearing to 24.05.2007. Once again on 24.05.2007, the petitioner remained absent and the enquiry officer postponed the hearing to 31.05.2007. Even on 31.05.2007, the petitioner remained absent. The Enquiry Officer after examining the witnesses P.W.1 to P.W.5 and the documents Exs.P.1 to P.9 has submitted a report dated 04.06.2007 that the charge framed against the petitioner has been proved by the prosecution.

(xviii)The Principal District Judge, Thanjavur agreed with the findings of the Enquiry Officer and issued a memorandum dated 08.06.2007 to the petitioner directing her to submit within 15 days from the date of receipt of the said memorandum her further representation failing which it will be presumed that she has no representation to make and further action will be taken on merits of the case.

(xix)After receiving the said memorandum, the petitioner submitted her explanation on 20.06.2007 as follows:

"I acknowledge the receipt of the memorandum of the Principal District Judge, Thanjavur along with the copy of remarks of the Enquiry Officer, viz. the I Additional District & Sessions Judge (PCR), Thanjavaur. In pursuance of the directions contained in the memorandum, I submit my written representation, as follows:

1.I was selected through the Tamil Nadu Public Service Commission, and I was taken in the Judicial Ministerial Service and posted as Junior Assistant in Thanjavur District. My service in this department was duly regularized. I was working as Record Junior Assistant, in the Principal Sub Court at Thanjavur from 13.04.2006 to 26.10.2006, when I was suspended from service by the orders of the Principal District Judge, Thanjavur in his Order in R.O.C.No.149/2006/A1 dated 25.10.2006.

2.I submit that the Principal District Judge and other officers will be referred to herein as follows for the convenience of quick reference.

Principal District Judge as P.D.J.

Principal Sub-Judge as P.S.J.

I Additional District Judge (PCR) as E.O.,

Judicial Magistrate No.III at Thanjavur as J.M.III.

3.I have detailed in my letter dated 17.01.2007 that the complaint of PSJ against me is false, incriminatory, and vindictive. In the said letter, I

have explained, stage by stage, as to what happened in the Sub Court premises on the evening of 18.10.2006. I have left the 3rd stage in suspense as to what happened in the chamber of the P.S.J. The P.D.J. without appreciating as to what kind of instances would have happened in the chamber of P.S.J. sent his proceedings in R.O.C.No.149/2006/A1 dated 22.02.2007 holding that my explanation was not at all satisfactory and the charge was framed against me. In the charge, the P.D.J. has annexed the form of questionnaire without incorporating the list of witnesses to be examined on the side of the complainant P.S.J. The procedure of non-furnishing the list of witnesses at the time of issuing the charge memo is illegal and on this ground, the entire proceedings of the P.D.J. are liable to be quashed.

4. When I made the representation, time and again, of evading the payment of my subsistence allowance, the P.D.J. in his proceedings A.No.149/2006/A1 dated 05.04.2007 appointed the I Additional District Judge (PCR), Thanjavur as the E.O. The E.O. was appointed for the third time when the illegality in the appointment of the P.S.J. was brought to the notice of the P.D.J. The P.D.J. perhaps, due to reluctance, in enquiring the matter, made over it to the present E.O. The P.D.J. in the said proceedings, has expressed the list of witnesses. They are:-

- (i) the complainant.
- (ii) Thiru B.Mani, Sarishtadar, Sub Court, Thanjavur and
- (iii) Tmt.S.Jayalalitha, Steno Typist, Sub Court, Thanjavur

Other than these three persons, nobody was listed in the proceedings. This procedure is contrary to T.N.C.S.C.C.A Rules.

5. When the matter was placed before the E.O., I required compliance of four legal essentialities.

- (1) Permission sought for the appointment of an advocate, to conduct the case;
- (2) Permission sought to leave Thanjavur for Chennai for the engagement of a Senior Counsel to cross examine the said witnesses; local Advocates are not dealing with service matters and some Advocates are not willing to take up my case.
- (3) Permission sought for applying loan to any banking institutions or private parties for the legal expenses:
- (4) Disbursement of my subsistence allowance.

6. The E.O without looking into the adversity of Government Servant, has threatened me, in his memorandum D.P. No.1/2007 dated 11.05.2007 that the matter was posted on 17.05.2007 and on my failure, to appear before

him, I would be set exparte. My letter dated 15.05.2007 yielded no positive result and the E.O. is said to have examined five witnesses who gave his remarks on 04.06.2007. The P.D.J. by his memorandum D.No.3983/2007/A1 dated 08.06.2007 has called for my representation, on the remarks of the E.O.

(xx)According to the petitioner, the enquiry report dated 04.06.2007 and the entire procedures adopted by the Principal Sub-Judge, Principal District Judge and the Enquiry Officer are contrary to law, weight of evidence and probabilities of the case.

(xxi)In her representation dated 20.06.2007 and the supplemental representation dated 23.06.2007 giving explanation to the enquiry report dated 04.06.2007 to the second respondent, for the first time, the petitioner has alleged sexual harassment allegation against the complainant Judicial Officer. Without participating in the disciplinary enquiry proceedings despite several opportunities given to her, the petitioner, for the first time has made sexual harassment allegations against the complainant Judicial Officer.

(xxii)No separate sexual harassment complaint was given by the petitioner against the complainant Judicial Officer. The alleged misconduct and misbehavior of the petitioner (delinquent) happened on 18.10.2006. But the petitioner made sexual harassment allegation against the complainant Judicial Officer only for the first time, in her representations dated 20.06.2007 and 23.06.2007.

(xxiii)The Principal District Judge, Thanjavur while accepting the findings of the Enquiry Officer has stated that he never declined to receive any complaint from the petitioner during the month of Ramzan nor instructed his P.A. not to receive any such complaint during the month of Ramzan. The complaint given by the Principal Subordinate Judge against the delinquent was also received by the Principal District Judge only during the month of Ramzan on 18.10.2006.

(xxiv)The Principal District Judge, Thanjavur has carefully considered both the representations of the petitioner, dated 20.06.2007 and 23.06.2007 and held that the charges framed against the petitioner have been proved and the petitioner has committed serious misconduct unbecoming of a member of the service and has grossly violated Rule 20 of Tamil Nadu Government Service Conduct Rules 1973 and 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

(xxv)The Principal District Judge has further held that the alleged misconduct on the part of the petitioner should be viewed very seriously and if such serious misconduct is left unchecked, indiscipline will creep into the department which will cause heavy damage to the great faith the public have in judiciary. He also referred to the judgment of the Supreme Court reported in AIR 2006 SC 975 (L.K.Verma vs. H.M.T. Limited and another) wherein, it was held that "so far as the contention as

regards to the quantum of punishment is concerned, suffice it to say that verbal abuse to superior officers has been held to be sufficient for inflicting a punishment of dismissal."

(xxvi)Based on the above findings, the second respondent by his order dated 13.09.2007 imposed against the petitioner under Rule (viii) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules punishment of dismissal from the civil services of the State Government viz., Judicial Department of the Tamil Nadu Government with effect from Fore Noon of 13.09.2007.

(xxvii)Aggrieved by the dismissal order dated 13.09.2007, the petitioner preferred an appeal before the appellate authority namely, the first respondent in the month of October 2007. She reiterated the explanation given by her on 17.01.2007, 20.06.2007 and 23.06.2007 in her appeal and submitted that the Principal Subordinate Judge has lodged a false complaint against her only to preempt a complaint from being lodged by the petitioner against the Principal Subordinate Judge for sexual harassment. According to the petitioner, the evidence of P.Ws.1 to P.W.5 is not sufficient to convict her and she must be given an opportunity to cross examine them. The petitioner has also challenged the order of dismissal dated 13.09.2007 on the ground that the charges framed against her will not come under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and therefore, the order of dismissal is liable to be set aside. The petitioner further submitted that she was not paid the subsistence allowance despite repeated requests and the format of the certificate required to be submitted was also not sent to her. No opportunity was given to her to defend her case by the enquiry officer and hence, Article 311 (2) of the Constitution has been violated. In her appeal, the petitioner also sought for legal action against the Principal Subordinate Judge, Thiru K.Dhakshinamoorthy for misbehaving with her.

(xxviii)The appeal was filed in October 2007, but since the first respondent did not fix a date of hearing for the appeal, the petitioner approached this Court in W.P.No.11183 of 2008 to direct the first respondent to dispose of the appeal filed by her. This Court by its order dated 29.04.2008 directed the respondents to decide the appeal on merits at an early date preferably within three months from the date of receipt/production of the copy of this order. Pursuant to the directions given by this Court, in its order dated 29.04.2008, the appeal filed by the petitioner was disposed of on 07.07.2008 by the order of the first respondent, which reads as follows:

"After going through the appeal petition and other records it has been decided that the quantum

of punishment be reduced from dismissal to one of compulsory retirement."

(xxix) Aggrieved by the order of the second respondent, dated 13.09.2007 dismissing the petitioner from service which was modified into compulsory retirement by the order of the first respondent dated 07.07.2008. The appellate authority appears to have taken into account that the punishment of dismissal from service was disproportionate and hence, modified the same to compulsory retirement.

19. As seen from the observations recorded by us in the earlier paragraphs, the following conclusions are reached:

(i) The complainant Judicial Officer lodged the complaint against the petitioner for her misbehavior on the same date i.e. on 18.10.2006 itself. The petitioner for the first time in her explanation dated 17.01.2007 has officially brought on record the fact that the complainant Judicial Officer had misbehaved with her.

(ii) Despite several opportunities being given by the Enquiry Officer, including the permission to engage an Advocate, the petitioner did not appear before the Enquiry Officer.

(iii) Crucially, P.W.4, Tmt.S.Jayalalitha, Steno-typist, in her deposition, has stated that she was in the Chamber, when the alleged act of sexual harassment is said to have taken place. It seems P.W.4 does not support the allegation of the petitioner that she was sexually harassed as alleged. P.W.4 has stated, in her deposition has stated that the complainant Judicial Officer admonished the petitioner for loitering which apparently triggered the outburst by the petitioner.

(iv) The subsistence allowance was not paid only due to the non production of non employment certificate by the petitioner. The second respondent has stated that the petitioner declined to produce the non employment certificate despite request made to her for the production of the same.

(v) The fact that the punishment was modified from dismissal to compulsory retirement by the first respondent, the appellate authority appears to have taken into account the argument that the punishment was disproportionate and at the same time given weight to the findings arrived at by the Enquiry Officer that the allegation of sexual harassment was palpably inaccurate.

20. In the light of the above conclusions arrived by us, the petitioner does not deserve any further indulgence from this Court and the grounds raised by her in the writ petition do not deserve any merit. Accordingly, the writ petition shall stand

dismissed. However, there shall be no order as to costs.
Consequently, M.P.No.1 of 2009 is closed.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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To

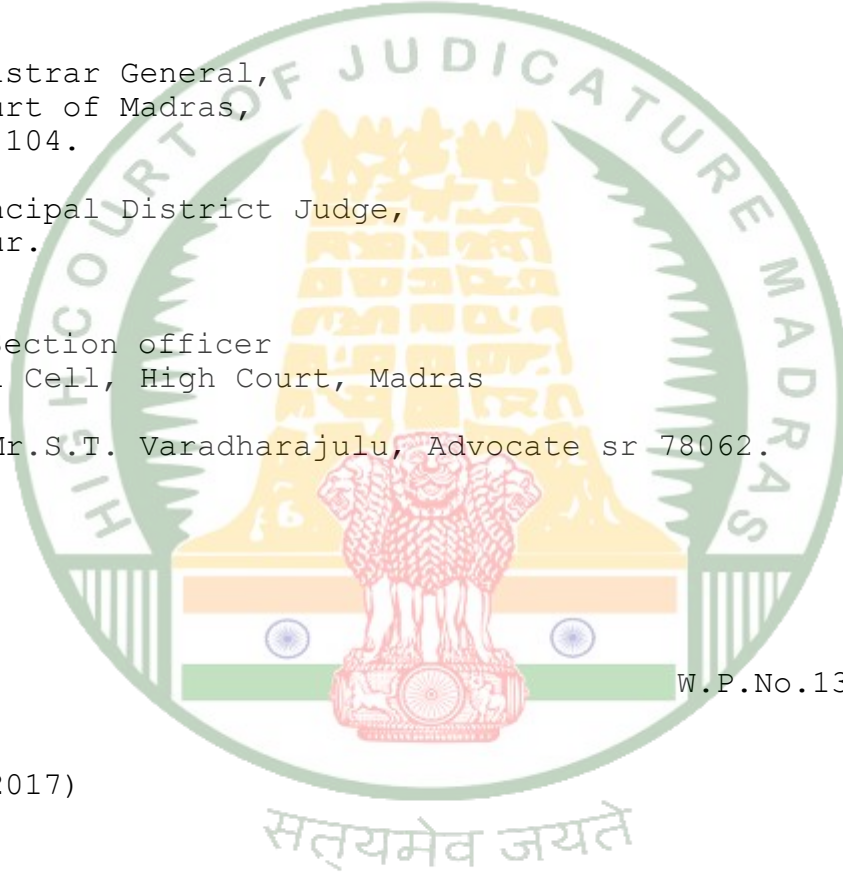
1. The Registrar General,
High Court of Madras,
Chennai 104.

2. The Principal District Judge,
Thanjavur.

copy to

The Section officer
Legal Cell, High Court, Madras

+1 CC to Mr.S.T. Varadharajulu, Advocate sr 78062.



W.P.No.13504 of 2009

MN (CO)
SP (27/11/2017)

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