

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
24.03.2021	01.04.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

WP.No.97/2016

V.Karthikeyan ... Petitioner

Versus

1.The Government of Tamil Nadu
rep.by the Principal Secretary to
Government, Fort St George,
Chennai 600009.

2.The Registrar General
High Court, Madras 600 104.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for writ of certiorarified mandamus calling for the records of the proceedings on the file of the 1st respondent in G.O.[4D] No.47 dated 17.08.2015 and quash the same as a illegal, incompetent, without jurisdiction and to consequently direct the respondents to declare the completion of probation of the petitioner on completion of his two years of service on 11.10.2014.

For Petitioner : Mr.S.Prabakaran
Senior Counsel assisted by
Mr.R.Krishnakumar

For R1 : Mr.S.Kamalesh Kannan
Government Advocate

For R2 : Mr.B.Vijay
Standing Counsel

ORDER

M.SATHYANARAYANAN, J.,

- 1) The petitioner who was employed as the Judicial Magistrate No.6, Coimbatore, came to be discharged vide impugned G.O. [4D] No.47 of the 1st respondent dated 17.08.2015 and aggrieved by the same, has filed this writ petition.
- 2) The facts leading to filing of this writ petition, briefly narrated are as follows:-
 - (a) The writ petitioner was temporarily appointed as Civil Judge [Junior Division] in the Tamil Nadu State Judicial Services on 10.09.2012 and after administered with Oath of Affirmation, joined judicial services on 11.10.2012. The petitioner was directed to undergo a training for a period of two weeks from 15.10.2012 and 26.10.2012 and vide order dated 29.10.2012, he was posted as Judicial Magistrate No.6, Coimbatore.
 - (b) The petitioner has undergone training at Tamil Nadu State Judicial Academy from 29.10.2012 to 11.01.2013 and during such period, he availed Earned Leave and therefore, the due date of declaration of probation was on 19.10.2014.
 - (c) The Administrative Committee of this Court in the Meeting held on 24.02.2015, resolved that the writ petitioner is not suitable for full membership of the Tamil Nadu State Judicial Services and therefore, directed the Registry to issue a Show Cause Notice for discharge of probation. Accordingly, the Registrar General of the High Court has issued the Show Cause Notice dated 09.03.2015 as to why he should not be discharged as a Probationer. In the interregnum, the pet\ was placed under compulsory wait and was directed to hand over the charge of his post to the Judicial Magistrate No.5, Coimbatore.
 - (d) The writ petitioner, in reply to the Show Cause Notice, submitted his explanation on 17.03.2015 and the same was placed before the Administrative Committee and the Committee in the Meeting held on 22.04.2015, apart from the explanation submitted by the petitioner, has also taken into consideration the Annual Confidential Report as well as the Vigilance Report, and has recommended to discharge the petitioner from service. The said matter was placed as a subject before the Full Court Meeting held on 28.04.2015. The Full Court has approved the Resolution / decision of the Administrative Committee and the Registrar General has also addressed a Communication dated 15.05.2015 to the 1st respondent, who upon

consideration of the entire materials placed, has issued the impugned Government Order, discharging the petitioner from service as per Rule 27[c] of the General Rules for Tamil Nadu State and Subordinate Services with immediate effect and accordingly, the petitioner was discharged from service and the petitioner, challenging the legality of the said Government Order, has filed the present writ petition.

3) Mr.S.Prabakaran, learned Senior counsel assisted by Mr.R.Krishnakumar, learned counsel appearing for the petitioner made the following submissions:-

- The petitioner has duly complied with the norms prescribed for the said post and almost on all occasions, the Chief Judicial Magistrate, Coimbatore has rated the work done by him as good/very good.
- In the Show Cause Notice issued to the petitioner, there are no specific allegations doubting the honesty, integrity and probity of the petitioner and therefore, the petitioner was not in a position to meet out the allegations and in his response dated 17.03.2015 submitted to the Show Cause Notice, the petitioner has also made a specific submission that he has not come to any adverse notice so far in the form of any Memo / Charge Memo and if there are any allegations/averments, pointing out any infraction of duty on his part, he may be permitted or provided sufficient opportunity to disprove the same and despite such a communication, no tenable material whatsoever has been supplied/made available to the petitioner and therefore, the Order of Termination is purely a stigmatic one.
- Attention of this Court was also invited to Rule 26 of the Tamil Nadu State and Subordinate Services Rules and a submission was made to the effect that in the light of first proviso to Rule 26, a reasonable opportunity of showing cause against the imposition of any of the penalties specified in Clauses [iv], [vi], [vii] and [viii] of Rule 8 of the Tamil Nadu Civil Services [Discipline and Appeal] Rules, should have been provided and admittedly, the proviso to the said Rule has not been complied with.
- The Order of compulsory wait, passed against the petitioner cannot be equated or rather speak about the suitability of the probationer like the petitioner for full membership and since the impugned order is per se stigmatic and also visited the petitioner with grave civil consequences, before issuing the Order of Termination, it was obligatory on the part of the respondents to conduct a full-fledged departmental

enquiry / disciplinary proceedings and depending upon the result of the same, further action should have been taken and since the procedure mandate under law, has not been complied with in letter and spirit, prays for interference and passing of appropriate orders, for reinstating the petitioner in service with consequential service and attendant benefits.

- 4) The learned Senior counsel appearing for the petitioner, in support of his submissions, has also placed reliance upon the following decisions rendered by the Hon'ble Supreme Court of India:-

(a) 2005 [13] SCC 179 [Rajinder Singh Chauhan and Others V. State of Haryana and Others] ; and

(b) 2008 [5] CTC 554 [Punjab National Bank rep.by its Chairman Vs. Astamija Dash]

- 5) Per contra, Mr.B.Vijay, learned Standing counsel appearing for the 2nd respondent has drawn the attention of this Court to the Counter Affidavit dated 17.08.2016 and made a submission that Rule 26 is only a general rule and there is a specific rule in terms of sub-rules [2] and [3] of Rule 11 of the Tamil Nadu Judicial Officers [Cadre and Recruitment] Rules, wherein it has been stated that every person appointed to the post of Civil Judge by direct recruitment, shall from the date on which, he or she join, be on probation for a period of two years within a period of continuous three years including training as may be prescribed by the High Court and the High Court shall be competent to extend the period of the Civil Judge, if it is not satisfied with his/her work or conduct and orders declaring completion of probation shall be issued by the High Court.

- 6) The primordial submission made by the learned counsel for the 2nd respondent is that though the initial probation may be for a period of two years within a continuous period of three years, the High Court is competent to extend the period of probation of a Civil Judge, if it is not satisfied that the work or conduct is not in order and that apart, there must be a specific order declaring that the concerned official has successfully completed the probation and as such, the deemed completion of probation, as pleaded by the petitioner, is wholly unsustainable in law. It is the further submission of the learned counsel for the 2nd respondent that before the Administrative Committee, all the materials pertain to the petitioner including the Annual Confidential Report as well as the Vigilance Report were placed and the Administrative Committee, on a thorough consideration of the entire materials placed, took a decision for discharging the service of the petitioner and therefore, directed the Registry to issue a Show Cause Notice and accordingly, an opportunity to show cause was

also provided to the petitioner for which, he has also submitted his explanation on 17.03.2015. The reply of the petitioner to the Show Cause Notice was also taken into consideration by the Administrative Committee, who took a conscious decision to discharge the petitioner from service and it was also placed before the Full Court and the Full Court, by an unanimous decision, has affirmed the decision taken by the Administrative Committee and thereafter, necessary communication was sent to the 1st respondent, who also, on an independent application of mind to the materials placed, has passed the impugned Government Order.

- 7) Insofar as the submission made by the learned Senior counsel appearing for the petitioner that the Order of Discharge of the petitioner is stigmatic, it is the submission of the learned counsel for the 2nd respondent that the Order of Discharge would not come under the ambit of Rule 8 of the Tamil Civil Services [Discipline and Appeal] Rules and as such, there is no need or necessity to follow the procedure contemplated under Rule 17[b] of the said Rules. It is also the submission of the learned counsel for the 2nd respondent that the impugned order also refers to the case of one S.Umamaheswari and she made an unsuccessful challenge by filing WP.No.29895 of 2015 and vide final orders dated 22.12.2017, [reported in 2018 [1] CTC 382 [S.Umamaheswari Vs. The High Court of Judicature at Madras, rep.by its Registrar General, Chennai 600 104 and Others], similar plea made by her, has also been considered and rejected by this Court by dismissing the writ petition and the Special Leave Petition in SLP [C] No.012797/2018, preferred against the said order, also came to be dismissed on 01.05.2018, confirming the order dated 22.12.2017. In sum and substance, it is the submission of the learned counsel for the 2nd respondent that since the Order of Discharge of Probation of the petitioner is not stigmatic, coupled with the fact that the decision of the Administrative Committee has also been confirmed by the Full Court, the scope of interference by way of judicial review, is extremely limited and that apart, the similar challenge made by another officer similarly placed, viz., S.Umamaheswari, has also been rejected by a Division Bench of this Court, reported in 2018 [1] CTC 382 and hence, prays for dismissal of this writ petition with cost.
- 8) Mr.S.Kamalesh Kannan, learned Government Advocate, appearing for the 1st respondent has also adopted the arguments advanced by the learned counsel for the 2nd respondent.
- 9) This Court paid it's anxious consideration and best attention to the rival submissions and also perused the materials placed before it.
- 10) The following questions arise for consideration:
 - (1) Whether the discharge of the petitioner, who was a

- probationer, is stigmatic? ; and
- (2) To what relief, the petitioner is entitled to?
- 11) It is relevant to extract Rules 26 and 27[c] of the Tamil Nadu State and Subordinate Services Rules:-

'26. Termination or extension of probation -
(a) Where the special rules of any service prescribe a period of probation for appointment as a full member of the service, or where such period of probation has been extended under General Rule 28, the appointing authority may, at any time before the expiry of the prescribed period of probation or the extended period of probation, as the case may be-

- (i) discharge a probationer from the service for want of a vacancy; or
- (ii) at its discretion, by order, either extend the period of probation of the probationer in case the probation has not been extended under General Rule 28 or terminate his probation and discharge him from service after giving him a reasonable opportunity of showing cause against the proposed termination of probation; Provided that where a probationer has been given reasonable opportunity of showing cause against the imposition on him of any of the penalties specified in clauses (iv), (vi), (vii) and (viii) of rule 8 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and at the conclusion of the disciplinary proceedings a tentative conclusion is arrived as to terminate his probation, a further opportunity of showing cause specifically against termination of his probation need not be given to him.

Explanation - An opportunity to show cause may be given after the appointing authority arrives at a provisional conclusion on the suitability or otherwise of the probationer for full membership of the service, either by such authority himself or by a subordinate authority who is superior in rank to the probationer.

- (b) (i) If within the period of probation a probationer fails to acquire the special qualifications or to pass the special tests if any, prescribed in the Special Rules or to acquire such other qualifications as may

be declared by the State Government or by the appointing authority with the approval of the State Government to be equivalent to the said special qualifications or special tests, the appointing authority shall, by order, discharge him from the service unless the period of probation is extended under rule 28.

(ii) If within the period of probation prescribed in the special rules for the service or within the extended period of probation, as the case may be, a probationer has appeared for any such tests or for any examinations in connection with the acquisition of any such qualifications and the results of the tests or examinations for which he has so appeared are not known before the expiry of such period, he shall continue to be on probation until the publication of the results of the tests or examinations for which he has appeared or the first of them in which he fails to pass, as the case may be.

In case the probationer fails to pass any of the tests or examinations for which he has so appeared, the appointing authority shall, by order, discharge him from the service.

Explanation - The maximum period upto which the probation of a Government servant shall be extended so as to enable him to acquire the test qualification, be fixed as five years. If he does not acquire the test qualification even within the maximum period of five years, he shall be reverted and the qualified and eligible juniors shall be considered for promotion. If such a person is appointed by direct recruitment and has not acquired the test qualification even within the maximum period of five years, his probation shall be terminated.

(iii) Any delay in the issue of an order discharging a probationer under clause (i) or clause (ii) shall not entitle him to be deemed to have satisfactorily completed his probation.

27. Probationer's suitability for full membership :- (c) If the appointing authority decides that the probationer is not suitable for such membership. it shall, unless the period of probation is extended under rule 28, by order,

discharge him from the service after giving him a reasonable opportunity of showing cause against the action proposed to be taken in regard to him: Provided that where a probationer has been given a reasonable opportunity of showing cause against the imposition on him of any of the penalties specified in clauses (iv), (vi) (vii) and (viii) of rule 8 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and at the conclusion of the disciplinary proceeding, a tentative conclusion is arrived as to discharge him from the service, a further opportunity of showing cause specifically against such discharge need not be given to him.

Explanation I - The decision of the appointing authority that the probationer is not suitable for full membership may be based also on his work and conduct till the date of the decision, inclusive of the period subsequent to the prescribed or extended period of probation.

Explanation II - An opportunity to show cause may be given after the appointing authority arrives at a provisional conclusion on the suitability or otherwise of the probationer for full membership of the service, either by such authority himself or by a subordinate authority who is superior in rank to the probationer.

Explanation III - Where the competent authority proposes to terminate the probation of a member of a service for general unsatisfactory work or incapacity without the need for enquiry into specific charges, he shall do so under General Rules 26 or 27, as the case may be. In cases where he proposes to terminate the probationer of such member for specific charges in addition to, or distinct from, general inefficiency or incapacity, he shall frame specific charges and follow the detailed procedure laid down in rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, as such termination of probation by way of penalty will attract the provisions of 311(2) of the Constitution of India.''

- 12) The Impugned Government Order refers to Rules 26 and 27[c] of the General Rules of the Tamil Nadu State and Subordinate Services Rules. The primordial submission made by the learned Senior counsel appearing for the petitioner is that in the light of sub-clause [c] of Rule 27, before discharging the petitioner from service, a reasonable opportunity of showing cause against the action proposed to

be taken in regard to him and it should also contain the reasons.

- 13) At this juncture, it is relevant to quote Rule 11 of the Tamil Nadu Judicial Officers [Cadre and Recruitment] Rules, 2017:-

11.Probation:- (1) Every person appointed to the post of District Judge (Entry Level) by direct recruitment shall from the date on which he/she joins duty be on probation for a total period of two years on duty within a continuous period of three years, including the period of training as may be prescribed by the High Court. The High Court shall be competent to extend the period of probation of a District Judge (Entry Level) if it is not satisfied with his/her work or conduct. Orders declaring the completion of probation shall be issued by the High Court.

(2) Every person appointed to the post of Civil Judge by direct recruitment, shall from the date on which he/she joins be on probation for a period of two years within a continuous period of three years, including the period of training as may be prescribed by the High Court.

(3) The High Court shall be competent to extend the period of probation of Civil Judge if it is not satisfied with his/her work or conduct. Orders declaring the completion of probation shall be issued by the High Court.

- 14) It is a well settled position of law that Special Rules exclude the General Rules and even otherwise, both Rules do not act contrary to each other. Rule 26 read with 27[c] of the General Rules of the Tamil Nadu State and Subordinate Services Rules also speaks about extension of probation and issuance of the Show Cause Notice before discharging the petitioner from service. In the light of sub-rule [3] of Rule 11 of the Tamil Nadu Judicial Officers [Cadre and Recruitment] Rules, there cannot be any deemed declaration of successful probation / confirmation of services.
- 15) Admittedly, the Administrative Committee has taken note of materials and thought fit to direct the Registrar General of the High Court to issue the Show Cause Notice and accordingly, a Show Cause Notice dated 09.03.2015 was issued to the petitioner and in the meanwhile, the petitioner was kept under compulsory wait. The petitioner has also submitted his explanation to the Show Cause Notice on 17.03.2015, stating among other things that he has

discharged his duties properly and sincerely and if at all any materials is available against him, he should have been given an opportunity to meet the said allegations.

- 16) It is a well settled position of law that in respect of an order of termination of service simplicitor, it is not a stigmatic one.
- 17) The learned Senior counsel for the petitioner has placed reliance upon Rajinder Singh Chauhan's case reported in 2005 [13] SCC 179 and Astamija Dash's case reported in 2008 [5] CTC 554 [cited supra].
- 18) This Court, on going through the decision reported in 2005 [13] SCC 179 [Rajinder Singh Chauhan and Others V. State of Haryana and Others], found that the relevant Rules of Haryana State Federation of Consumer Cooperatives Wholesale Stores Limited Staff Service Rules, 1975, would disclose that the employee shall be deemed to have been confirmed in the service unless specific order in this regard is issued. However, in the case on hand, there is no such deemed probation available and sub-rule [3] of Rule 11 of the Tamil Nadu Judicial Officers [Cadre and Recruitment] Rules, 2017, specifically makes it clear that the orders declaring completion of probation, shall be issued by the High Court.
- 19) In 2008 [5] CTC 554 [Punjab National Bank rep.by its Chairman Vs. Astamija Dash], the Doctrine of Implied Confirmation, in the light of the Regulations framed by the Punjab National Bank in terms of Banking Company [Acquisition and Transfer of Undertakings] Act, 1970, came up for consideration and the Hon'ble Supreme Court of India, by taking into consideration of the fact that the employee, who is a woman, had undergone miscarriages, in their opinion, was entitled to different treatment and accordingly, dismissed the appeal filed by the Punjab National Bank.
- 20) The decisions relied on by the learned Senior counsel for the petitioner, in our considered view, have no application to the case on hand.
- 21) In 2018 [1] CTC 382 [S.Umamaheswari V. The High Court of Judicature at Madras rep.by the Registrar General], the judicial officer, viz., S.Umamaheswari, whose case also been dealt with by the 1st respondent in the very same impugned Government Order, has been considered on similar grounds and it is relevant to extract paragraphs No.32, 33 and 34:-

'32.From the various judgments of Honourable Apex Court referred above. It is clear that deemed confirmation or extension period of Probation would depend upon the concerned service Rules. In the above background, when we look at the Rule which governs the Writ Petitioner, particularly Rull 11[2] of the Tamil Nadu State Judicial Service

[Cadre and Recruitment] Rules, though Service Rules provide two years period of Probation within continuous period of three years, power to extend the Probation vest with High Court, if it is not satisfied with work or conduct of the Appointee. Admittedly, Rule 11[2] of the Tamil Nadu State Judicial Service [Cadre and Recruitment] Rules confers power to High Court to provide maximum period of Probation. Even after the Probation period, one continues his/her service, he/she cannot automatically acquire the right to be confirmed. Further, service rules also require specific act on the part of the High Court for issuing Order of Confirmation. Admittedly, the High Court has not passed any Order of Confirmation. Therefore, the Writ Petitioner cannot contend that her service is deemed to be confirmed after two years period of probation.

33. We are of the view that Rule 11 of the Tamil Nadu State Judicial Service [Cadre and Recruitment] Rules is specific which governs the service condition of the Writ Petitioner. Therefore, the Writ Petitioner cannot take shelter under the General Rule 27 of the TNSSS Rules. Therefore, merely because show cause notice was issued under Rule 26 of the General Rule of the TNSSS Rules, it cannot be stated that the Service Rules 26 and 27 will apply. However, we may say that even if Rule 27 is applied, it should be established that no order was issued within six months from the date on which the writ petitioner became eligible for declaration. Only then the deemed probation will come into operation. As already discussed, probation period shall be calculated excluding the period of leave the writ petitioner availed. The writ petitioner had availed 21 days of leave during the probation period of two years which got over on 01.11.2014 and after that, within six months period, i.e., on 09.03.2015, show cause notice was issued, based on the recommendation of the Administrative Committee's Resolution dated 24.02.2015. Therefore, issuance of Show cause notice within six months period after the period of two years probation itself was an indicative of the fact that her probation has not been confirmed and the process has been commenced for discharge of petitioner.

34. Similarly, Explanation III to Rule 27[c]

of TNSSS Rules also deals with the power of Competent Authority, which proposes to terminate the services of a Probationer for general unsatisfactory work or incapacity without the need for enquiry into specific charges. That power also could be exercised by the Competent Authority under General Rules 26 & 27 of the TNSSS Rules, as the case may be. The High Court being the Competent Authority has every power to invoke the General Rule, i.e., TNSSS Rules also.'

- 22) It is to be noted at this juncture, the impugned Government Order, which is the subject matter of challenge in this writ petition, is a common one in which recommendation made by the High Court for discharge of the petitioner as well as S.Umamaheswari, has been taken into consideration and accordingly, they were discharged from service. It is also to be noted at this juncture that the decision reported in 2018 [1] CTC 382 [cited supra] was also the subject matter of challenge before the Hon'ble Apex Court in SLP [C] No.012797/2018 and it was also dismissed, confirming the order passed by this Court.
- 23) It is useful and relevant to quote the decision rendered by the Apex Court reported in 2010 [12] SCC 783 [Rajesh Kohli Vs. High Court of Jammu and Kashmir and another], wherein in paragraph No.18, it is observed among other things that, 'during the period of probation an employee remains under watch and his service and his conduct is under scrutiny. Around the time of completion of the probationary period, an assessment is made of his work and conduct during the period of probation and on such assessment a decision is taken as to whether or not, his service is satisfactory and also whether or not on the basis of his service and track record his service should be confirmed or extended for further scrutiny of his service if such extension is permissible or whether his service should be dispensed with and terminated. The services rendered by a judicial officer should be dispensed with and terminated. The services rendered by a judicial officer during probation are assessed not solely on the basis of judicial performance, but also on the probity as to how one has conducted himself.'
- 24) The Hon'ble Apex Court of India, in the latest decision reported in 2020 [8] SCALE 183 [Rajasthan High Court Vs. Ved Priya and Another], has considered the case relating to the discharge of the probation as well as the width and sweep of the judicial review by the High Court over the decision taken by the Full Court on its administrative side and it is relevant to extract the following:-
- '...It is thus clear that the entire objective of probation is to provide the

employer an opportunity to evaluate the probationer's performance and test is suitability for a particular post...The true test of suitability is actual performance of duties which can only be applied after the candidate joins and starts working...

....Qualitative assessment and is holistic analysis of non-quantifiable factors are indeed necessary. Merely because Respondent No.1's ACRs were consistently marked 'Good', it cannot be a ground to bestow him with a right to continue in service.

....Whereas in the case of a confirmed employee the scope of judicial interference would be more expansive given the protection under Article 311 of the Constitution or the Service Rules, but such may not be true in the case of probationers who are denuded of such protection[s] while working on trial basis.

Probationers have no indefeasible right to continue in employment until confirmed and they can be relieved by the competent authority if found unsuitable....

.....It is explicit from these contents that neither any specific misconduct has been attributed to Respondent No.1 nor any allegation made. The order is based upon overall assessment of the performance of Respondent No.1 during the period of probation, which was not found satisfactory. Such an inference which can be a valid foundation to dispense with services of a probationer does not warrant holding of an enquiry in terms of Article 311 of the Constitution....सत्यमेव जयते

....The Court, in the process of judicial review of such order, can always lift the veil to find out as to whether or not the order was meant to visit the probationer with penal consequences. If the Court finds that the real motive behind the order was to 'punish' the official, it may always strike down the same for want of reasonable opportunity of being heard...

There is nothing on record in the present case to infer that the motivation behind the

removal was any allegation. Instead , it was routine confirmation exercise. The evaluation of services rendered during the probationary period was made at the end of the first respondent's tenure, along with 92 others. Vigilance Reports were called not just for the Respondent No.1, petitioner, but also for at least ten other candidates. It is thus clear that the object was not to verify whether the allegations against the first respondent had been proved or not, but merely to ascertain whether there were sufficient reasons or a possible cloud on his suitability given the higher standard of probity expected of a judge.

.....However, when the employer does not pickup a specific instance and forms his opinion on the basis of overall performance during the period of probation, the theory of action being punitive in nature, will not be attracted. Onus would thus lie on the probationer to prove that the action taken against him was of punitive characteristics.

.....Since Respondent No.1 has failed to establish that the High Court intended or has actually punished him for any defined misconduct, it stands crystallized that the object of the High Court on the administrative side was to verify the suitability and not enquire into the allegations against the first respondent....''

- 25) In paragraph No.26, it is quoted that '' Since Respondent No.1 has failed to establish that the High Court intended or has actually punished him for any defined misconduct, it stands crystallized that the object of the High Court on the administrative side was to verify the suitability and not enquire into the allegations against the first respondent, viz., Ved Priya. Independently also, we do not find that the foundation was the allegations but it was based upon a holistic assessment of the respondent's service record. Even taking an effects based approach, we do not feel that the order of non-confirmation or the preceding circumstances would prejudice the respondent, meriting a higher procedural requirement.'' In the considered opinion of the Court, the above cited decision reported in 2020 [8] SCALE 183 [Ved Priya's case] would squarely apply to the facts and circumstances of the present case. The order of Discharge

- of the petitioner as a probationer, in the considered opinion of the Court, is not stigmatic.
- 26) The position of a judicial officer is like Ceasar' wife and he/she should be beyond / above suspicion and therefore, the standard of performance, probity, integrity and honesty is put on the highest pedestal than that of the other Government servants. The petitioner's case also cannot be considered when it is a well settled position of law that the suitability of the judicial officers cannot also be the subject matter of judicial review.
- 27) This Court, on a careful scrutiny and appraisal of the entire materials placed before it and on a thorough and careful consideration of the rival submissions is of the considered view that there is no infirmity or error apparent on the face of the record in the impugned order passed by the 1st respondent and that apart, the impugned Government Order is based upon the recommendation made by the High Court on its administrative side and the judicial review of the said decision, also lies in a very narrow campus.
- 28) In the result, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

AP

To

1.The Principal Secretary to
Government, Government of Tamil Nadu,
Fort St George, Chennai 600009.

2.The Registrar General
High Court, Madras 600 104.
+2ccs to Mr.R.Krishnakumar, Advocate, Sr.No. 21624
+1 cc to The Government Pleader Sr.No. 22186

WP.No.97/2016

PM(CO)
RMP(06/05/2021)