IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE J. SATHYA NARAYANA PRASAD

W.P.No.15624 of 2021

N. Sivalingam ... Petitioner

Vs.

The State of Tamil Nadu
Rep.by its Additional Chief Secretary and Government,
Home (Transport II) Department, Secretariat,
Chennai 600 009. ... Respondent

PRAYER : Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus directing the respondent to call for the records of the respondent in connection with the impugned order passed by him in G.O.(2D) No.20, Home (Tr.II) Department dated 29.01.2021 and quash the same and consequently direct the respondent to permit the petitioner to retire from service and settle the pensionary benefits and other benefits entitled to him.

For Petitioner : Mr.A.Ganesan
Senior Counsel
for Mr.K.M.Ramesh

For Respondents : Mr.M.Shahjahan
Special Government Pleader

ORDER

The petitioner has filed the above writ petition praying for a Writ of Certiorarified Mandamus directing the respondent to call for the records of the respondent in connection with the impugned order passed by him in G.O.(2D) No.20, Home (Tr.II) Department dated 29.01.2021 and quash the same and consequently direct the respondent to permit the petitioner to retire from service and settle the pensionary benefits and other benefits entitled to him.

2. The case of the petitioner is that he was working as Deputy Transport Commissioner, Salem and on 05.02.2007 the respondent has issued orders for initiating Common Disciplinary Proceedings against the petitioner and other 42 officials who were all working in the office of the Regional Transport Office, Tiruppur under Rule 9A of the Tamil Nadu Civil Services (Discipline and Appeal) Rules in G.O.(D).No.154, Home (Tr.II) Department alleging certain irregularities committed in collection of fees and tax etc., against them. A charge memo dated 13.08.2007 was issued to the petitioner and also to all other 42 officials with similar charge memo by the respondent. On 28.10.2008, the petitioner was suspended from service by the respondent and subsequently on 31.10.2008 the petitioner was not allowed to retire from

service on superannuation and retained in service till the disciplinary proceedings against him is disposed of. The respondent passed an impugned order in G.O.(2D)No.20, Home (Tr.II) Department dated 29.01.2021 imposing major punishment of "Removal from Service". Aggrieved by the above order, the petitioner has come forward with the present writ petition.

3. The learned senior counsel appearing for the petitioner submitted that though disciplinary proceedings were initiated against 42 officials apart from petitioner for certain irregularities committed in collection of fees and tax etc., the Commissioner, Tribunal for Disciplinary Proceedings, Coimbatore conducted the enquiry against the petitioner and other delinquents and submitted his enquiry report No.53 of 2008 to the respondent on 30.01.2009, wherein he has held that the charges against the petitioner is proved. The respondent aggrieved with the findings communicated a copy of the enquiry report to the petitioner on 11.01.2010 for sending further representation to the respondent. On 26.02.2010, the petitioner submitted his further representation to the respondent against the findings of the Enquiry Officer and requested to drop the charges against him. The learned senior counsel further submitted that since the respondent was keeping the petitioner's disciplinary proceedings with

him for more than 5 years from the year 2010, the petitioner filed writ petition before this Court for relief. On 24.04.2015 this Court passed an order in W.P.No.12201 of 2015 directing the respondent to pass final orders on the disciplinary proceedings against the petitioner within 6 weeks from the date of receipt of a copy of the order. The respondent neither passed orders on the disciplinary proceedings against the petitioner nor filed petition before this Court seeking extension of time to pass final orders but it was kept pending with him indefinitely even after the orders passed by this Court on 24.04.2015. The petitioner filed another W.P.No.15991of 2018 on 02.07.2018 before this Court to quash the charge memo, but the case was not posted for hearing. Hence, the petitioner was under mental agony due to his suspension for more than 10 years and for the pendency of the disciplinary proceedings with the respondent indefinitely.

4. The learned senior counsel further submitted that the petitioner approached the office of the respondent Department for early disposal of the Disciplinary Proceedings against him. The respondent office informed him that the final orders could be passed only after the case filed by him in W.P.No.15991 of 2018 is withdrawn, the final orders will be passed.

Subsequently on 18.10.2019, the petitioner withdrew W.P.No.15991 of 2018 from this Court and approached the respondent office for early disposal of the Disciplinary Proceedings pending against him by the respondent. But the respondent never passed orders thereon. Thereafter, in the year 2019, the petitioner filed a contempt petition No.1526 of 2019 against the respondent for not having complied with the orders of this Court passed in W.P.No.12201 of 2015 dated 24.05.2015 and the said contempt petition is pending before this Court and lastly posted on 02.01.2020. Thereafter on 29.01.2021 to his shock without reference to the orders passed by this Court against the respondent in W.P.No.12201 of 2015 dated 24.05.2015 and the contempt petition filed against the respondent for not having complied with the orders within the time granted by this Court and suppressing the above facts, the respondent passed an order in G.O.(2D) No.20, Home (Tr.II) Department dated 29.01.2021 imposing him the major punishment of 'Removal from Service'.

5. The learned senior counsel further submitted that though the common disciplinary proceedings were initiated against 42 delinquents by the respondent, the charge memo against them are all similar and identical to one another. Whereas out of 43 delinquents, the respondent dropped charges against

19 delinquents, 'censure' punishment imposed against 3 delinquents, minor punishment of stoppage of increments without cumulative effect ordered against 9 delinquents, 8 delinquents were allowed to retire from service without prejudice to disciplinary proceedings pending against them and thereafter they were imposed cut in pension ranging from Rs.100/- to Rs.800/- for the period ranging from 6 months to 5 years. Three delinquents against whom the respondent imposed the punishment of stoppage of increment without cumulative effect for 2 years filed writ petition No.25314 of 2011 etc., before this Court and this Court quashed the punishment order on the ground of discrimination and for violation of the concept of equality in common order in W.P.No.25314 of 2011 dated 13.12.2012. The respondent has also complied with the orders of this Court and dropped the punishment against the writ petitioner.

6. The learned senior counsel further submitted that the respondent dropped the charge memo against one of the delinquents who was also a Regional Transport Officer in Tiruppur similar to that of the petitioner. Similar and identical charge memo as that of the petitioner was served to him. Similarly there are two other delinquents, against whom charges were proved and charges

were dropped by the respondent. The respondent has neglected the orders of this Court to comply with in favour of the petitioner and disrespected this Court to comply the same within the time granted by this Court. Further, the respondent has issued a vague and bald charge memo against the petitioner. The inquiry officer adopted a strange procedure against the provisions of the Tamil Nadu Civil Service (Discipline and Appeal) Rules and his report is a case of no evidence and violation of principles of natural justice.

7. The learned senior counsel further submitted that failure on the part of the respondent to comply with the orders of this Court passed in W.P.No.12201 of 2015 dated 24.05.2015 is against the law held by the Supreme Court of India in W.P.No.14054 and 30805 of 1988 in SLP (C) No.2103 of 1987 dated 01.09.1989. The learned senior counsel would further submit that following charges were framed against the petitioner and other delinquents and the same are extracted as hereunder:-

"<u>Charge – I</u>

During your tenure as Regional Transport Officer/Registering Authority at Regional Transport Office, Tiruppur, it has been found that the life time tax, registration fees and fee for reservation of advance registration numbers for the new vehicles registered during the period were not actually paid in the office, but the vehicles were registered and advance

registration numbers have been allotted based on bogus receipts as from Regional Transport Office prepared using some cash trac machine and the petitioner has miserably failed to verify whether the fee for registration as per Rule 81 of the CMV Rules, fee for reservation of advance registration number as per Rule 132 of TNMV Rules and tax as per Section 4(1-A)(a) of TNMVT Act was paid correctly. Being the head of office and Registering Authority the petitioner is responsible for the overall supervision of the office and the petitioner has failed to cross check the total number of vehicles registered with reference to the daily abstract of cash trac receipts. Instructions have been issued by the Transport Commissioner in Circular No.40/2001, requesting the Regional Transport Officers to ensure that the registers relating to the accounts and related matters are properly maintained and thoroughly checked. Non adherence to the instructions in this case has resulted in pecuniary loss to Government to the tune of Rs.24,48,202/- during the petitioner's tenure at Regional Transport Office, Tiruppur. Hence the petitioner along with others working in the office during the period under reference are responsible for the above loss of revenue to Government.

Charge II

During the above period while you were functioning as Regional Transport Officer, Tiruppur it has been found that advance registration numbers were allotted based on fake Government Orders produced by the parties. The registration numbers should have been allotted only after the receipt of such orders directed from the Government without solely relying on the copies of orders purported to have been issued by Government and produced by the parties. Non adherence to the laid down general procedure facilitated the allotment of advance registration numbers based on fake Government orders.

Thus, you have failed to ensure observance of laid down procedures and also filed to detect the fake Government Orders produced for allotment of advance registration numbers.

Charge - III

As per Circular 38/99 issued by the Transport Commissioner, Chennai the dealer should present the application for registration to the Motor Vehicles Inspector who in turn will verify the vehicle and the application and if the vehicle and application are found to be in order, the application should be given to the applicant after affixing the seal in the application for registration in Form 20 stating that the application and the vehicle are in order and tax and fee can be collected. The Shroff after collection of tax and fees should hand over the application to the concerned Motor Vehicles Inspector who will in turn certify and allot the registration numbers. But in these cases, this system was not followed. The petitioner the head of office should have supervised whether the circular instructions are strictly followed and the above failure has resulted in loss of revenue to Government as stated in Charge – 1".

8. Though, common disciplinary proceedings were initiated against the delinquents including the petitioner, nearly all the delinquents against whom the charge memo issued were either the charges dropped or imposed with minor punishment or permitted to retire from service and then imposed a meagre amount of pension cut for a short period on the charges by the respondent. Whereas the petitioner who is the only person against whom the

respondent imposed with the major punishment of 'Removal from Service' for which the respondent took nearly 14 years to pass final orders which is an act of discrimination and a clear violation of the concept of equality as enshrined in Article 14 of the Constitution of India. This Court has already set aside the punishment orders passed against three of the delinquents in the common disciplinary proceedings in common order passed in W.P.No.25314 of 2011 dated 13.12.2012. The said order of this Court is squarely applicable to the petitioner.

9. The learned senior counsel further drew the attention of this Court to the order dated 27.09.2010 passed by the respondent dropping the charges against S.Panneerselvam, Regional Transport Officer and Head of Office in the O/o.The Regional Transport Office, Tiruppur, whereas the petitioner was issued with same type of charge memo in the year 2007 which was similar and identical charge memo issued by the respondent to Thiru.S.Panneerselvam, Regional Transport Officer. The learned senior counsel also submitted a copy of the letter No.58590/J2/2007 dated 10.12.2008 written by the Principal Secretary/Transport Corporation, Chennai - 5 to the Principal Secretary to the Government, Home (Transport) Department, Chennai – 9 informing that the

entire process of collection as pointed out in the “fake receipt scam” case at Regional Transport Office, Thiruppur was completed and the amount to be collected is Nil. The learned senior counsel further submitted that as per the charges and as per AAO report dated 03.04.2008, the loss caused by S.Panneerselvam, RTO, Tiruppur is a sum of Rs.55,17,630/- and the amount was collected from the vehicle owners since the same is evident by letter issued by the Transport Commissioner, Chennai. But the charges were dropped against him by the respondent, in regard to the monetary loss caused by the petitioner is a sum of Rs.24,48,202/- which is Rs.30,00,000/- lesser than the monetary loss caused by one S. Panneerselvam, RTO, Tiruppur and the amount was collected from the vehicle owners.

10. The learned senior counsel again reiterated that the major punishment of “Removal from Service” was ordered by the respondent on 29.01.2021 against the petitioner only, he alone was imposed with a major punishment but as far as the other 42 delinquents are concerned, the respondent dropped charges against 19 delinquents, 'censure' punishment imposed against 3 delinquents, minor punishment of stoppage of increments without cumulative effect ordered against 9 delinquents, 8 delinquents were allowed to retire from

service without prejudice to disciplinary proceedings pending against them and thereafter they were imposed cut in pension ranging from Rs.100/- to Rs.800/- for the period ranging from 6 months to 5 years. Three delinquents against whom the respondent imposed the punishment of stoppage of increment without cumulative effect for 2 years filed writ petition No.25314 of 2011 etc., before this Court and this Court quashed the punishment order on the ground of discrimination and for violation of the concept of equality in common order in W.P.No.25314 of 2011 dated 13.12.2012. Charges were framed against the petitioner as well as against S.Paneerselvam, RTO, Thiruppur. The charge memo issued to S.Paneerselvam, RTO, Tiruppur is similar and identical charge memo as that of the petitioner and pecuniary loss caused by the petitioner is sum of Rs.24,48,202/- and the petitioner was imposed with a major punishment of removal from service and the respondent took nearly 160 months to pass final order against the petitioner, whereas the charges framed against S.Panneerselvam, RTO was finalised in 38 months which is violation of the concept of equality as enshrined in Article 14 of the Constitution of India. A clear discrimination was shown by the respondent taking different decisions among the delinquents. While charges were framed after 9 years of the incident, there was no explanation in the charge memo regarding the delay in framing the charges. The alleged pecuniary loss was collected from the vehicle owners and paid to the Government exchequer/Home Secretary vide letter sent by Transport Commissioner to Principal Secretary to Government, Home (Transport) Department, Chennai vide Lr.No.58590/J2/2007 dated 10.12.2008.

11. Counter affidavit dated 02.12.2022 was filed on behalf of the respondent and it is relevant to extract the following tabular columns-

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and Appeal) Rules, the following punishments have been imposed on them as indicated against each:-

S.No	Delinquent Official	Proposed Punishment	G.O details
01.	N.Sivalingam, DTC (u/s)	Removal from Service	G.O.(2D) No.20, dated 29.01.2021
02.	P.Rajagopal, RTO (Retd)	Punishment of cut in pension at the rate of Rs.800/- per month for a period of five years.	G.O.(D) No.1052, dated 20.10.2010
03.	P.Nirmala, P.A to R.T.O (Retd)	Punishment of cut in pension at the rate of Rs.800/- per month for a period of five years.	G.O.(D) No.686, dated 11.07.2011
04.	A.Muthusamy, R.T.O (Retd)	Punishment of cut in pension at the rate of Rs.500/- per month for a period of five years.	G.O.(D) No.1268, dated 29.12.2010
05.	P.Ramasamy, P.A to R.T.O (u/s)	Punishment of cut in pension at the rate of Rs.500/- per month for a period of five years. (To be kept in abeyance till the disposal of another disciplinary proceedings pending against him)	G.O.(2D) No.183, dated 11.05.2011
06.	K.Sadasivam, MVI (Gr.I) (Retd)	Punishment of cut in pension at the rate of Rs.800/- per month for a period of five years.	G.O.(D) No.773, dated 24.09.2013
07.	N.Murugesan, MVI (Gr.I) (u/s)	Punishment of cut in pension at the rate of Rs.800/- per month for a period of five years. (To be kept in abeyance till the disposal of another disciplinary proceedings pending against him)	G.O.(D) No.381, dated 24.03.2017
08.	M.Kalyanasundaram, Superintendent (u/s)	Punishment of cut in pension at the rate of Rs.500/- per month for a period of five years. (To be kept in abeyance till the disposal of another disciplinary proceedings pending against him)	In another TOP Case No.110/2008 in G.O. (2D) No.219 Dated: 13.09.2021 he was imposed the punishment of Removal from service

Chennai-5.

Transport Commissioner, Chennai, Chennai-5.

09.	C.Kandavel, Superintendent.	Censure	G.O (2D) No.[illegible], dated [illegible].08.2010
10.	A.Chidambaram, Superintendent.	Punishment of stoppage of increment for a period of one year without cumulative effect.	G.O.(2D) No.385, dated 26.08.2010
11.	M.[illegible], MVI (Gr.I) (Retd)	Punishment of cut in pension at the rate of Rs.[illegible]/- per month for a period of one year.	G.O.(D) No.657, dated 11.07.2011
12.	S.[illegible], Assistant (u/s)	Punishment of cut in pension at the rate of Rs.250/- per month for a period of three years. (To be kept in abeyance till the disposal of another disciplinary proceedings pending against him)	
13.	K.S.Krishnamoorthy, P.A to R.T.O. (Retd)	Punishment of cut in pension at the rate of Rs.[illegible]/- per month for a period of two years.	G.O.(D) No.1035, dated 20.10.2010
14.	S.A.Seetharaman, J.A (Retd)	Punishment of cut in pension at the rate of Rs.100/- per month for a period of two years.	G.O.(D) No.1036, dated 20.10.2010
15.	V.Sivasubramanian, JA	Punishment of stoppage of increment for a period of one year without cumulative effect.	G.O.(2D) No.385, dated 26.08.2010
16.	R.Arputharaj, Junior Assistant (Retd)	Punishment of cut in pension at the rate of Rs.[illegible]/- per month for a period of six months.	G.O.(D) No.1053, dated 20.10.2010
17.	[illegible] Mohanraj, MVI (NT)	Censure	G.O.(2D) No.[illegible], dated 06.08.2010
18.	K.S.Subbu Narasimhan, Superintendent (Retd).	Punishment of cut in pension at the rate of Rs.250/- per month for a period of one year.	G.O.(D) No.658, dated 11.07.2011
19.	V.Srikanth, Motor Vehicle Inspector (NT)	Punishment of stoppage of increment for a period of two years without cumulative effect.	G.O.(2D) No.358, dated 05.08.2010
20.	[illegible] Manimozhiyan, formerly Junior Assistant.	Punishment of stoppage of increment for a period of three years without cumulative effect.	G.O.(2D) No.[illegible], dated 06.05.2010

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21.	N.Thangappan, Junior Assistant (Retd)	Punishment of cut in pension at the rate of Rs.200/- per month for a period of three years.	G.O.(D) No.288, dated 24.03.2011
22.	Selvam Subha, formerly Assistant.	Punishment of stoppage of increment for a period of one year without cumulative effect.	G.O.(2D) No.390, dated 06.08.2010
23.	P.Savithri, formerly Assistant.	Censure	G.O.(2D) No.391, dated 06.08.2010
24.	A.Ravi, Assistant.	Punishment of stoppage of increment for a period of two years without cumulative effect.	G.O.(2D) No.392, dated 06.08.2010
25.	S.Kuppusamy, Assistant.	Punishment of stoppage of increment for a period of one year without cumulative effect.	G.O.(2D) No.393, dated 06.08.2010
26.	M.S.Anandakrishnan, Assistant (Retd).	Punishment of cut in pension at the rate of Rs.100/- per month for a period of six months (**Abatement**)	G.O.(D) No.475, dated 24.05.2011
27.	J.AnthoniGnanaraj, formerly Assistant.	Punishment of stoppage of increment for a period of three years without cumulative effect.	G.O.(2D) No.394, dated 06.08.2010
28.	V.Gandhi Maheswaran, Assistant.	Punishment of stoppage of increment for a period of two years without cumulative effect.	G.O.(2D) No.395, dated 06.08.2010
29.	A.Subbiah, Superintendent (Retd).	Punishment of cut in pension at the rate of Rs.200/- per month for a period of one year.	G.O.(D) No.1054, dated 20.10.2010
30.	K.Selvaraj, Superintendent	Dropping of charges	G.O.(D) No.348, dated 12.07.2010
31.	M.Samiyappan, Assistant Accounts Officer	Dropping of charges.	G.O.(D) No.347, dated 12.07.2010
32.	N.R.Jagadeesan, Junior Assistant	Punishment of cut in pension at the rate of Rs.300/- per month for a period of three year.	G.O.(D) No.71, dated 24.05.2013
33.	C.Sekar, Motor Vehicles Inspector, Gr-I	Action Dropped	G.O.(D) No.970, dated 27.09.2010

Joint Transport Commissioner (Admin) Chennai - 5.

Transport Commissioner, Chepauk, Chennai - 5.

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34.	A.Veerapandian, Motor Vehicles Inspector, Gr-I	Action Dropped	G.O.(D) No.968, dated 27.09.2010
35.	P.Dharmanandan, Motor Vehicles Inspector, Gr-II	Action Dropped	G.O.(D) No.969, dated 27.09.2010
36.	S.Paneerselvam, RTO, Tirupour	Action Dropped	G.O.(D) No.967, dated 27.09.2010
37.	N.V.Kathiravan, Assistant	Action Dropped	G.O.(D) No.1125, dated 12.11.2010
38.	M.Krishnasamy, Motor Vehicles Inspector, Gr-I	Action Dropped	G.O.(D) No.152, dated 17.12.2011
39.	A.I.Muthappan, Assistant	Action Dropped	G.O.(D) No.153, dated 17.12.2011
40.	M.Rajan, MVI-Gr-I	Action Dropped	G.O.(D) No.154, dated 17.12.2011
41.	C.Palani, Superintendent	Action Dropped	G.O.(D) No.155, dated 17.12.2011
42.	M.Meenakshi Sundaram, Superintendent	Action Dropped	G.O.(D) No.156, dated 17.12.2011
43.	R.Kumar, Assistant	Action Dropped	G.O.(D) No.157, dated 17.12.2011
44.	P.Ravichandran, Assistant	Action Dropped	G.O.(D) No.158, dated 17.12.2011
45.	R.Amarnath, Assistant	Action Dropped	G.O.(D) No.159, dated 17.12.2011
46.	N.Dandapani, Assistant	Action Dropped	G.O.(D) No.160, dated 17.12.2011
47.	K.S.Palanisamy, Assistant Accounts Officer	Action Dropped	G.O.(2D) No.188, dated 15.04.2010
48.	P.Suresh Babu, Assistant	Action Dropped	G.O.(D) No.161, dated 17.12.2011
49.	S.Balamurugan, Assistant Accounts Officer	Action Dropped	G.O.(2D) No.187, dated 15.04.2010

Joint Transport Commissioner (Admn) Chennai - 5.

Transport Commissioner, Chepauk, Chennai - 5.

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12. The learned Special Government Pleader appearing for the respondent submitted that the punishment of Removal from Service imposed on the petitioner is based on the gravity of charges. The delay in imposing the punishment on the petitioner is only due to various writ petitions filed by N.Sivalingam, Deputy Transport Commissioner, formerly Regional Transport Officer, Tiruppur against which writ appeal was filed before this Court. The charge framed against the petitioner is specific incorporating the duties entrusted to the petitioner under the Motor Vehicles Act, 1988 and his negligence in performing his official duty, which has ended up in loss to the Government to the tune of Rs.24,48,202/-. The charges framed against the petitioner was based on the special audit team report and it is not vague in nature and the reported judgment in 2011 (5) CTC 564 in case of Anil Gilurker Vs. Bilaspur Raipur Kshetria Gramin Bank is not applicable in this case. The charges are very clear and there was commission of act that the petitioner has failed to detect the loss of revenue to the Government and has not taken any action to curb such losses. It is submitted that the petitioner shifting his responsibility from his shoulder to his subordinates. This could not be considered as a fair one and the petitioner was fastened with vicarious liability. It is the bounden duty of the petitioner to supervise the subordinates in

discharging their official duties.

13. The learned Special Government Pleader further submitted that the petitioner has failed in all manner of supervising his subordinates and failed to curtail the loss of revenue to the Government. It is submitted that no effective steps were taken by the petitioner while he was in service as Regional Transport Officer, Tiruppur and the Government order imposing the punishment upon the petitioner is a speaking order and there is no flaw found by the petitioner. The further representation submitted by the writ petitioner has been taken into account, while imposing the punishment of "Removal from Service" on him. It is submitted that among all the delinquent officials involved in this case, the writ petitioner was imposed with the punishment of "Removal from Service" by taking into consideration the gravity of the offence committed by him.

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

15. In this case on 05.02.2007 the respondent has issued orders for initiating Common Disciplinary Proceedings against the petitioner and other 42

officials who were all working in the office of the Regional Transport Officer, Tiruppur alleging with certain irregularities committed in collection of fees and tax etc., The main allegation against the petitioner is that he caused pecuniary loss to the Government to the tune of Rs.24,48,202/- during his tenure of service as Regional Transport Office, Tiruppur. Being the head of office and Registering Authority the petitioner is responsible for the overall supervision of the office and the petitioner has failed to cross check the total number of vehicles registered with reference to the daily abstract of cash trac receipts. The other charge against the petitioner is that advance registration numbers were allotted based on fake Government Orders produced by the parties. The other charges against the petitioner is that procedures were not followed by the petitioner as an approval authority and the circular and instructions issued by the respondent was not complied with by the petitioner and he has also failed to maintain absolute integrity and devotion to duty and contravened the provisions of rule 20(1) and (2) of the Tamil Nadu Government Servants Conduct Rules, 1973. In this case there were 43 delinquents, out of which the respondent dropped charges against 19 delinquents, 'censure' punishment imposed against 3 delinquents, minor punishment of stoppage of increments without cumulative effect ordered against 9 delinquents, 8 delinquents were allowed to retire from service without prejudice to disciplinary proceedings pending against them and thereafter they were imposed cut in pension ranging from Rs.100/- to Rs.800/- for the period ranging from 6 months to 5 years. Three delinquents against whom the respondent imposed the punishment of stoppage of increment without cumulative effect for 2 years filed writ petition No.25314 of 2011 etc., before this Court and this Court quashed the punishment order on the ground of discrimination and for violation of the concept of equality in common order in W.P.No.25314 of 2011 dated 13.12.2012. The respondent has also complied with the orders of this Court and dropped the punishments against the writ petitioner. The petitioner herein alone was imposed with a major punishment of removal from service by the respondent in G.O.(2D)No.20, Home (Tr.II) Department dated 29.01.2021. It is pertinent to note that in Tiruppur RTO there were two RTO officials, one is Mr.S.Panneerselvam and another one is the petitioner. The allegation and the charge against the petitioner and S.Panneerselvam are one and the same and the only difference regarding pecuniary loss caused to the exchequer/Government is the loss caused by S.Panneerselvam is for a sum of Rs.55,17,530/- (Rupees Fifty Five Lakhs Seventeen Thousand Five Hundred and Thirty only) whereas the loss caused to Government by the petitioner is a sum of Rs.24,48,202/- (Rupees Twenty Four

Lakhs Forty Eight Thousand Two Hundred and Two Only) which is Rs.30,00,000/- below caused by the S.Panneerselvam. Enquiry was conducted by the Commissioner for Disciplinary Proceedings Tribunal, Coimbatore and the enquiry officer sent his final enquiry report in No.53 of 2008 dated 30.01.2019 since the petitioner denied all the charges, the respondent remitted the case to the Commissioner of Disciplinary Proceedings, Coimbatore on 03.07.2008 to conduct enquiry against the petitioner and other accused in the case under the provisions of the Tamil Nadu Civil Services (Disciplinary Proceedings Tribunal) Rules, 1955 and to report it to the respondent. **It is pertinent to note that the charges which was framed against the petitioner and one S.Panneerselvam who was also working as RTO in the office of the RTO, Tiruppur it is surprise and shocking that the charges were dropped by the respondent vide proceedings in G.O.(D)No.967 / Home (Tr II) dated 27.09.2010, even though the charges are one and the same as that of the petitioner. The copy of the Government Order is extracted hereunder:-**

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ABSTRACT

Public Services- Transport Department – Departmental disciplinary action against Tr.S.Paneerselvam, formerly Regional Transport Officer, Tiruppur – Further action dropped – Orders – Issued.

Home (Tr.II) Department

G.O.(D) No.967

Dated:27.09.2010.

திருவள்ளுவர் ஆண்டு 2041
புரட்டாசி மாதம் 11 - ஆம் நாள்

Read:

1) G.O. (D) No.783, Home, dated.03.07.08.
2) Govt. Lr.No. 59447/Tr.II/05-9, dated 13.8.07.
3) From the Commissioner for Disciplinary Proceedings
Lr. No.746/2008/m1, dated. 30.7.10.

ORDER:-

Departmental disciplinary proceedings was initiated and the following charges were framed against Tr.S.Paneerselvam, formerly Regional Transport Officer, under rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules:-

Charge- 1:-

During his tenure as Regional Transport Officer/Registering
Authority at R.T.O Office, Tiruppur, it has been found that Life time tax,
Registration fees and fee for reservation of Advance Registration
numbers for the new vehicles registered during the period were not
actually paid in the office. But vehicles were registered and Advance
Registration numbers have been allotted based on bogus receipts as
from Regional Transport Office prepared using some cash track
machine.

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He has failed to verify whether the fee for registration as per rule 81 of CMV Rules, fee for reservation of Advance Registration Number as per Rule 132 of TNMV Rules and Tax as per Sec 4(1-A)(a) of TNMVT Act was paid correctly. Being the head of office and Registering Authority, he is responsible for the overall supervision of the office. He has failed to cross check the total number of vehicles registered with reference to the daily abstract of cash track receipts.

Instructions have been issued by the Transport Commissioner in Circular No. 40/2001 requesting the R.T.Officers to ensure that the registers relating to the accounts and related matters are properly maintained and thoroughly checked. Non adherence to the instructions in this case has resulted in pecuniary loss to Government to the tune of Rs.55,26,327/- during his tenure as Regional Transport Officer, Tiruppur.

Charge-II

During the above period while he was functioning as R.T.O., Tiruppur, it has been found that advance registration numbers were allotted based on fake government orders produced by the parties. The registration numbers should have been allotted only after the receipt of such orders directly from the Government without solely relying on the copies of orders purported to have been issued by Government and produced by the parties. Non adherence to the laid down general procedure facilitated the allotment of advance registration numbers based on fake Government orders.

Thus he has failed to detect the fake Government Orders produced for allotment of Advance Registration Numbers.

Charge-III:

As per Circular 38/99 issued by the Transport Commissioner, Chennai, the dealer should present the application for registration to the Motor Vehicles Inspector who in turn will verify the vehicle and the application and if the vehicle and application are found to be in order, the application should be given to the applicant after affixing the seal in the application for registration in Form 20 stating that the application and the vehicle are in order and tax and fees can be collected. The Shroff after collection of Tax and Fees Should handover the application to the concerned M.V.Inspector who will in turn certify and allot the registration numbers.

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But in these cases, this system was not followed. He, being the head of office should have supervised whether the circular instructions are strictly followed. His above failure has resulted in loss of revenue to Government as stated in Charge-1.

Thus he has failed to maintain absolute integrity and devotion to duty and contravened the provisions of rule 20(1) and (2) of the Tamil Nadu Government Servants Conduct Rules 1973 and thus resulted in loss of revenue to Government.

2. The Commissioner for Disciplinary Proceedings, Coimbatore who inquired into the charges has held the charges as 'not proved' against Tr.S.Paneerselvam, formerly Regional Transport Officer.

3. The Government, after careful examination have decided to accept the findings of the Commissioner for Disciplinary Proceedings, Coimbatore and held the charges against Tr.S.Paneerselvam, formerly Regional Transport Officer, as 'not proved' and have decided to drop the charges against him. Accordingly, the Government order that the charges against Tr.S.Paneerselvam, formerly Regional Transport Officer be dropped.

(BY ORDER OF THE GOVERNOR)

K.GNANADESIKAN
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Transport Commissioner, Chennai-5.
Tr.S.Paneerselvam, formerly Regional Transport Officer.
(through the Transport Commissioner, Chennai-5)
SF/SC

//FORWARDED/BY ORDER//

SECTION OFFICER

/True copy/

16. **The respondent in the counter affidavit has submitted the list of delinquent officials and the punishment imposed on them as cited supra. It can be seen from the final inquiry report of the Commissioner for Disciplinary Proceedings Tribunal, Coimbatore in No.53 of 2008 that charges were dropped by the respondents during the year 2010-2011 against 19 delinquents, 'censure' punishment imposed against 3 delinquents, minor punishment of stoppage of increments without cumulative effect ordered against 9 delinquents, 8 delinquents were allowed to retire from service without prejudice to disciplinary proceedings pending against them and thereafter they were imposed cut in pension ranging from Rs.100/- to Rs.800/- for the period ranging from 6 months to 5 years. From the above statement submitted by the respondent in his counter affidavit it is crystal clear and evident that in regard to other 42 delinquents, common disciplinary proceedings were initiated against the delinquents including the petitioner, nearly all the delinquents against whom the charge memo issued were either the charges dropped or imposed with minor punishment or permitted to retire from service and then imposed a meagre amount of pension cut for a short period on the charges by the respondent whereas the petitioner is the only person against whom**

the respondent imposed with the major punishment of 'Removal from Service' for which the respondent took nearly 14 years to pass final orders which is an act of discrimination and a clear violation of the concept of equality as enshrined in Article 14 of the Constitution of India. The respondent cannot take a different stand for different persons and the same should be unison in nature. It is once again reiterated that as reagrd the similarly placed person S.Panneerselvam against whom the similar charges to that of the petitioner was framed and caused a big loss of Rs.55,17,830/- (Rupees Fifty Five Lakhs Seventeen Thousand Eight Hundred and Thirty Only) the charges were dropped by the respondent and left scot free whereas the petitioner was imposed with a major punishment of "Removal from service". It is clear case of discrimination by the respondent by taking different decision among the delinquents and the charges were framed after 9 years of delay when the occurrence is of the year 1999-2002. The alleged pecuniary loss was collected from the vehicle owners and paid to the Government exchequer/Home Secretary vide letter sent by Transport Commissioner to Principal Secretary to Government, Home (Transport) Department, Chennai vide Lr.No.58590/J2/2007 dated 10.12.2008.

17. In view of the above factual matrix of the case this Court is of the considered view that the impugned order passed by the respondent in G.O.(2D) No.20, Home (Tr.II) Department dated 29.01.2021 is liable to be quashed and the same is hereby quashed.

18. In the result, the writ petition is allowed and the respondent is directed to permit the petitioner to retire from service and settle the pensionary benefits and other benefits entitled to him within a period of eight weeks from the date of receipt of a copy of this order. No costs.

19.09.2023

Index: Yes/No
Speaking Order: Yes/No
dpq

J. SATHYA NARAYANA PRASAD, J.

dpq

To

The State of Tamil Nadu
Rep.by its Additional Chief Secretary and
Government,
Home (Transport II) Department, Secretariat,
Chennai 600 009.

W.P.No.15624 of 2021

19.09.2023