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W.P.No.18778 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

|                             |                          |
|-----------------------------|--------------------------|
| <b><i>Reserved on</i></b>   | <b><i>29.09.2022</i></b> |
| <b><i>Pronounced on</i></b> | <b><i>02.01.2023</i></b> |

CORAM

**THE HONOURABLE MR.JUSTICE M.S.RAMESH**

W.P.No.18778 of 2014

Jayachitra

... Petitioner

*Vs.*

1.The Superintendent of Police,  
Krishnagiri District, Krishnagiri.

2.The Deputy Inspector General of Police,  
Salem Range, Salem.

... Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the respondents in connection with the impugned order passed by 1<sup>st</sup> respondent in PR.No.51/G1/2012 dated 14.11.2013 and confirmed by 2<sup>nd</sup> respondent in Rc.No.B2/06/85/2014 Appeal No.07/2014 dated 04.02.2014 and quash the same and direct the respondents to reinstate the petitioner into service and grant her all consequential service and monetary benefits.

For Petitioner : Mr.Venkataramani,  
Senior Counsel  
for Mr.M. Muthappan



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For Respondents : M/s. Rajarajeswari,  
Government Advocate

### **ORDER**

The petitioner herein was appointed as a Junior Assistant in the Police Training College, Chennai, on 15.09.1993 on compassionate grounds. At the time of her appointment, she had submitted the Death Certificate, Legal Heirship Certificate, Income Certificate, Educational Qualification Certificate, for getting appointment on compassionate grounds. When the certificate dated 10.06.2009 that her mother had not remarried, was sent for verification to the Tahsildar Office, Krishnagiri, the Tahsildar had certified that the said certificate was not issued from their office. Subsequently, the Income Certificate that her family members are not employed in the Government or Private Department dated 13.03.1992; Legal Heirship Certificate dated 05.07.1990; Death Certificate dated 20.05.1990; and immovable property details dated 05.01.1993, were also held to be bogus through a letter of the Tahsildar, Krishnagiri, dated 10.12.2010. In view of this, charges came to be framed against the petitioner through a Charge Memo dated 19.11.2012. In the



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Inquiry Report dated 28.10.2013, the charge against the petitioner was held as proved. The first respondent herein by the impugned order dated 14.11.2013, had imposed the punishment of dismissal from service. On appeal, the second respondent herein had confirmed the order of punishment through the impugned order 04.02.2014. Both these original orders as well as the order in appeal, are put under challenge in the present Writ Petition.

2. The learned senior counsel appearing for the petitioner submitted that the Inquiry Officer had not rendered any finding with regard to the statement of the witnesses and that the concerned Tahsildar who had certified the documents submitted by the petitioner as bogus, was not examined and therefore, the punishment itself requires to be quashed.

3. Per contra, the learned Government Advocate appearing for the respondents placed reliance on the averments in the counter-affidavit and submitted that though the petitioner was initially appointed on 15.09.1993, she had evaded to submit all the original testimonials for the purpose of regularization and had ultimately, submitted the same only



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belatedly. Since the Tahsildar had certified that the documents submitted by the petitioner was not issued from their office, there is no infirmity in the punishment imposed.

4. The entire case revolves around the letter issued by the Tahsildar, holding that the six documents submitted by the petitioner, were not issued from their office. On the part of the Department, three witnesses were examined who are all employees of the District Police Office, Krishnagiri. The letter issued by the Tahsildar, Krishnagiri in Na.Ka.No.20896/2009(A3) dated 10.12.2010, was marked as a document in the inquiry. However, the concerned Tahsildar or any other authority from the Tahsildar's Office was not examined to prove this crucial letter. But for this letter dated 10.12.2010 issued by the Tahsildar, there is no other document or evidence to hold the charge against the petitioner, as proved.

5. The Hon'ble Supreme Court in the case of '**Roop Singh Negi Vs. Punjab National Bank & others**' reported in '**(2009) 2 SCC 570**', had dealt with the manner in which the production of document in a



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departmental inquiry requires to be proved. As per the said decision, the contents of the documentary evidence has to be proved by examining the witnesses. Such a proposition was made in the following manner:

*.... “14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry officer on the FIR which could not have been treated as evidence....”*

6. As held in the aforesaid decision, when the charge against the petitioner was only on the basis of a letter of the Tahsildar claiming that the certificates produced by the petitioner was not issued from their office,



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the contents of that letter can be proved only through statements of the Tahsildar or other persons connected with the Tahsildar's Office.

7. The three witnesses who are Computer Assistant, Inspector and Personal Assistant (Accounts), all from the District Police Officers, cannot be termed to be witness who is competent to speak about the contents of a letter issued by the Tahsildar. Thus, by applying the ratio laid down by the Hon'ble Supreme Court in the case of **'Roop Singh Negi's case** (*stated supra*), this letter cannot be treated as evidence at all. But for the letter of the Tahsildar, there is no other evidence to substantiate the charge against the petitioner that the documents given by the petitioner was not issued from the Tahsildar's Office and accordingly, the entire proceedings is deemed to be vitiated.

8. The learned senior counsel appearing for the petitioner further submitted that the report of the Inquiry Officer is not on the basis of the evidence let in, in the inquiry.

9. Such a contention seems to be correct when the report dated



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28.10.2013 was perused. After extracting the evidence of the three Police Staff/Personnel, the Inquiry Officer in his discussion, had not made a single reference to any of the evidence let in, before him. On the other hand, the discussion relates to the petitioner's conduct in delaying the supply of the documents, that since there is no hostility between the Tahsildar and the petitioner, there is no reason for him to give a letter against her interest, that since the Tahsildar in his letter had stated that the documents were not issued from their Office, there was no reason to disbelieve the same. Apart from such observations, there is no other independent finding by the Inquiry Officer in his report, on the strength of the evidence, both oral and documentary let in, before him.

**10.** In '*Anil Kumar Vs. Presiding Officer & others*' reported in '*(1985) 3 SCC 378*', the effect of such a non-speaking order was dealt with in the following manner:-

.... "5. *We have extracted the charges framed against the appellant. We have also pointed out in clear terms the report of the Enquiry Officer. It is well-settled that a disciplinary enquiry has to be a quasi-judicial enquiry held according to the principles of natural justice and the Enquiry Officer has a*



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*duty to act judicially. The Enquiry Officer did not apply his mind to the evidence. Save setting out the names of the witnesses, he did not discuss the evidence. He merely recorded his ipse dixit that the charges are proved. He did not assign a single reason why the evidence produced by the appellant did not appeal to him or was considered not credit-worthy. He did not permit a peep into his mind as to why the evidence produced by the management appealed to him in preference to the evidence produced by the appellant. An enquiry report in a quasi-judicial enquiry must show the reasons for the conclusion. It cannot be an ipse dixit of the Enquiry Officer. It has to be a speaking order in the sense that the conclusion is supported by reasons. This is too well-settled to be supported by a precedent. In Madhya Pradesh Industries Ltd. v. Union of India, this Court observed that a speaking order will at best be a reasonable and at its worst be atleast a plausible one. The public should not be deprived of this only safeguard. Similarly in Mahabir Prasad v. State of Uttar Pradesh, this Court reiterated that satisfactory decision of a disputed claim may be reached only if it be supported by the most cogent reasons that appealed to the authority. It should all the more be so where the quasi-judicial enquiry may result in deprivation of livelihood or attach a stigma to the character. In this case the enquiry*



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*report is an order sheet which merely produces the stage through which the enquiry passed. It clearly disclosed a total non-application of mind and it is this report on which the General Manager acted in terminating the service of the appellant. There could not have been a gross case of non-application of mind and it is such an enquiry which has found favour with the Labour Court and the High Court.*

*6. Where a disciplinary enquiry affects the livelihood and is likely to cast a stigma and it has to be held in accordance with the principles of natural justice, the minimum expectation is that the report must be a reasoned one. The Court then may not enter into the adequacy or sufficiency of evidence. But where the evidence is annexed to an order sheet and no correlation is established between the two showing application of mind, we are constrained to observe that it is not an enquiry report at all. Therefore, there was no enquiry in this case worth the name and the order of termination based on such proceeding disclosing non-application of mind would be unsustainable....”*

**11.** The aforesaid extract is self-explanatory.

**12.** Since the Inquiry Officer has not come to a final decision based



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on the evidence before him, the entire inquiry itself is deemed to be vitiated and consequently, punishment cannot be sustained.

**13.** In the light of the above findings, the impugned orders dated 14.11.2013 and 04.02.2014 passed by the first and second respondents respectively, are quashed. Consequently, there shall be a direction to the first respondent herein, to forthwith reinstate the petitioner back into service with effect from 14.11.2013, together with continuity of service and other service benefits. However, since this Court has not dealt with the merits of the charge levelled against the petitioner, she would not be entitled for the monetary benefits that may have been deprived to the petitioner from the date of her dismissal. Such orders shall be passed atleast within a period of four (4) weeks from the date of receipt of a copy of this order.

**14.** With the above directions, this Writ Petition stands allowed. No costs.

**02.01.2023**

Speaking  
Index : Yes  
Internet : Yes



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To

- 1.The Superintendent of Police,  
Krishnagiri District,  
Krishnagiri.
- 2.The Deputy Inspector General of Police,  
Salem Range, Salem.



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**M.S.RAMESH,J.**

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Pre-delivery Order in  
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