



W.P.(MD)No.4856 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.4856 of 2022

and WMP (MD) Nos.4010 and 4011 of 2022

P.Jeyarani

: Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Social Welfare and Women Empowerment Department,
Secretariat, Chennai 9.

2.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Social Welfare and Nutritious Noon Meal
Programme Department,
Secretariat, Chennai 9.

3.The Director of Social Welfare
and Women Empowerment Department,
Commissionerate of Social Welfare,
Panagal Building 2nd Floor,
Saidapet, Chennai 15.

: Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Writ of Certiorari, calling for the records



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relating to the impugned punishment order of dismissal passed by the 1st respondent in his proceedings in Government Order (2Pa)No.17 dated 28.12.2021 and quash the same as illegal.

For Petitioner : Mr.M.Ajmal Khan, Senior Counsel
for M/s.Ajmal Associates
for Mr.C.Venkatesh Kumar

For Respondents : Mr.J.K.Jeyaseelan
Government Advocate

ORDER

This writ petition has been filed challenging the punishment order of dismissal passed by the first respondent against the petitioner in Government Order (2Pa) No.17 dated 28.12.2021.

2. The case of the petitioner is that she was appointed as Supervisor on 15.07.1982 at an Integrated Child Development Service and subsequently, she was promoted to various posts. On 17.08.2011, she was transferred and appointed as the District Social Welfare Officer at District Social Welfare Office, Thanjavur. While the petitioner was working in the said post, regular weekly meeting will be organized by the Committee to discuss various social welfare schemes in Anganwadi in the village or ward and the outcome of the meeting will also be sent to



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Grama Sevika and Mukkiya Sevika.

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3. While so, when a weekly meeting was conducted on 07.02.2013 at District Social Welfare Office at Thanjavur and at about 01.00 p.m., a surprise check was made by the Vigilance team at the Office and a sum of Rs.45,600/- was seized from the ten officials including the petitioner, who possessed a sum of Rs.2,000/-. Thereafter, a case has been registered against the petitioner and others in Crime No.2 of 2013 for the offences punishable under Section 102 of Cr.P.C and Sections 13(2) r/w 13 (1) (d) of the Prevention of Corruption Act, 1988 and thereafter, three counts of charges were framed against the petitioner by the proceedings of the Tribunal for Disciplinary Proceedings, Trichy in TDP.No.10H/2013 dated 03.07.2014.

4. It has been further stated that the petitioner had submitted her explanation on 08.02.2016 and the extract of the enquiry report was furnished to her on 16.12.2016 in which, out of three counts of charges, two were proved and third charge was not proved. Thereafter, the petitioner had submitted her further explanation on 05.01.2017 by refuting all the charges levelled against her. However, without taking into considering the same, the respondents had issued the proceedings dated



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28.12.2021 with a punishment of 'Dismissal from Service'.

5. Aggrieved over the impugned proceedings dated 28.12.2021, the writ petitioner has come forward with the instant writ petition.

6. The learned Senior Counsel appearing for the petitioner submitted that the explanation given by the petitioner/delinquent officer was not considered by the respondent. The respondents sought legal opinion from the Tamil Nadu Public Service Commission and its report was also not furnished to the petitioner/delinquent officer. He further submitted that a criminal case which was registered against the petitioner was dropped by the first respondent and the same was recorded by this Court in Crl.O.P.(MD) No.12436 of 2014 which was filed under Section 482 of Code of Criminal Procedure to quash the FIR in Crime No.2 of 2013 on the file of the first respondent Inspector of Police, Vigilance and Anti-Corruption Department, Thanajvur, Thanjavur District. In the said criminal original petition, the counter was filed by the respondents namely, the Inspector of Police, Vigilance and Anti-Corruption Department, Thanajvur, Thanjavur District and R.Tamilselvi, Vigilance and Anti-Corruption Department, Thanajvur, Thanjavur District, wherein



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it has been stated as follows:-

“2.The respondents had filed their counter and in paragraph – 8 it is averred as follows:

“These respondents respectfully submit that the final report was properly submitted by the first respondent after completing the investigation and requested the court to drop further proceedings against the accused. The Government recommended for Tribunal action against the petitioner/accused-1 and 9 others.

3.Since the first respondent after investigation, took a decision to drop further proceedings in pursuant to the registration of the FIR and recommended for departmental action against this petitioner/A1 and A9, nothing survives for adjudication in this petition and hence, this Criminal Original Petition is dismissed.”

7. Learned Senior Counsel would submit that three charges were framed against the petitioner of which, the charges 1 and 2 were held proved and the third charge has not held proved by the Enquiry Officer. It is pertinent to note that even in 161 statement recorded by the



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police, the prosecution witnesses 14 and 77 have said in the cross-examination that the petitioner received money. However, in the further cross-examination by the petitioner, both witnesses have given contradictory statements that the petitioner has not received any money. The above facts were stated by the petitioner/delinquent officer in his further explanation and the same is scanned and extracted hereunder:-

திருச்சிராப்பள்ளி ஒழுங்கு நடவடிக்கைகள் தீர்ப்பாயத்தின் கண்டறிதல்கள் மீது குற்றம் சாட்டப்பட்ட அலுவலரின் மேல்வினக்கம்

அ.சா.14 மற்றும் 77 ஆகிய இரண்டு சாட்சிகளும் அரசு தரப்பில் பிறகு சாட்சியாக அறிவித்த ரின்னர் அரசு தரப்பில் குறுக்கு விசாரணை செய்யும்பொழுது தாங்கள் போலீஸ் விசாரணையில் அவ்வாறு பணம் பெற்றதாக கூறியதாக ஒப்புக் கொண்டதாக சொல்லியுள்ளனர். ஆனால் அப்பொழுது என் தரப்பில் மீண்டும் குறுக்கு விசாரணை செய்யும்பொழுது மேற்படி இரண்டு சாட்சிகளும் முன்னுக்கு பின் முரணாக தங்கள் அவ்வாறு பணம் எதுவும் என்னிடம் கொடுக்கவில்லை என்று சாட்சியம் அளித்துள்ளனர். மேற்படி 14 மற்றும் 77 ஆகிய இரண்டு சாட்சிகளின் தீர்ப்பாய குறுக்கு விசாரணை செய்ததன் நகல்களை இந்த வினக்கத்திடம் இணைத்துள்ளேன் அதனையும் உற்றுக்கொள்ள வேண்டிய தகுதியையுடன் வேண்டுகிறேன்.

8. The charges framed against the petitioner/delinquent officer are extracted hereunder:-

“Charge No.1: You, (Accused Officer),
Thirumathi P.Jayarani while you were working
as District Social Welfare Officer, Thanjavur
District, were found to be in possession of
unaccounted cash of Rs.2,000/- at District
Social Welfare Office, Thanjavur on 7.2.2013



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and the amount was collected from the beneficiaries at your respective Panchayat Unions.

Thereby you had committed grave official misconduct and failed to maintain absolute integrity and devotion to duty and acted in a manner which is unbecoming a member of Government service and violated Rule 20(1) of the Tamil Nadu Government Servants' Conduct Rules 1973.

Charge No.2: *You, (Accused Officer), Thirumathi P.Jayarani, while you were working as District Social Welfare Officer, Thanjavur District, collected illegal gratification of Rs. 350/- for each block during the first week of every month during your tenure, in the same manner on 07.02.2013 at District Social Welfare Office, Thanjavur you collected Rs. 3000/- through one Tmt.P.Gomathi, Mukkiya Sevika, Thirupanandal.*

Thereby you had committed grave official misconduct and failed to maintain absolute integrity and devotion to duty and acted in a manner which is unbecoming a member of Government service and violated Rule 20(1) of the Tamil Nadu Government Servants' Conduct Rules 1973.



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Charge No.3: You, (Accused Officer), Thirumathi P.Jayarani, while you were working as District Social Welfare Officer, Thanjavur District, demanded and accepted bribe ranging from Rs.200/- to 300/- each for recommending applications under Moovalur Ramamirtham Ammaiya Marriage Assistance Scheme from 1.Tmt.S.Padmavathi, W/o Muthusamy, G.S.Pattukottai; 2.Tmt.K.Saroja, W/o Rajasekaran, Rural Welfare Officer, Sethubavachatram; 3.Tmt.R.Visithira, W/o Sundararajan, Rural Welfare Officer, Kumbakonam; 4.Tmt.N.Vasanth, W/o S.Asokan, Extension Officer, Kumbakonam; 5.Tmt.C.Kalavathi, Grama Sevika, Maddukkur Union Office.

Thereby you had committed grave official misconduct and failed to maintain absolute integrity and devotion to duty and acted in a manner which is unbecoming a member of Government service and violated Rule 20(1) of the Tamil Nadu Government Servants' Conduct Rules 1973."

9. The further explanation given by the petitioner to the first



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respondent on 05.01.2017, is extracted hereunder:-

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(II) மேற்படி நான் கையிருப்பில் வைத்திருந்த ரூ.2000 ஆனது எனது மகளின் மருத்துவ செலவிற்காகவும் எனது இதர செலவுகளுக்காகவும் வைத்திருந்த தொகை என்று நான் விசாரணை அதிகாரிகள் 12.5.12 ஆம் சோதனையின் போது தெரிவித்தவையும் ஆய்வுசான்றுகள் ஏற்காமலும் எனக்கு எதிராக சட்டப்பூர்வமாக வழக்கு தொடுத்துள்ளனர் என்று நான் தீவிரமாக கூறிய வாதத்திற்கு ஆதரவாக மருத்துவரின் பரிந்துரையும் மேல் சோதனைக்கு பின்னர் மேற்படி மருந்துக்கான மருந்தகத்தில் வாங்கியதற்கான ரசீதுகளையும் இந்த விளக்கத்துடன் இணைத்துள்ளேன். அதனையும் இதனுடன் ஒரு அங்கமாக ஏற்றுக் கொண்டு எனது கையால் நியாயத்தினை ஏற்றுக் கொள்ள வேண்டிய வேண்டுகிறேன்.

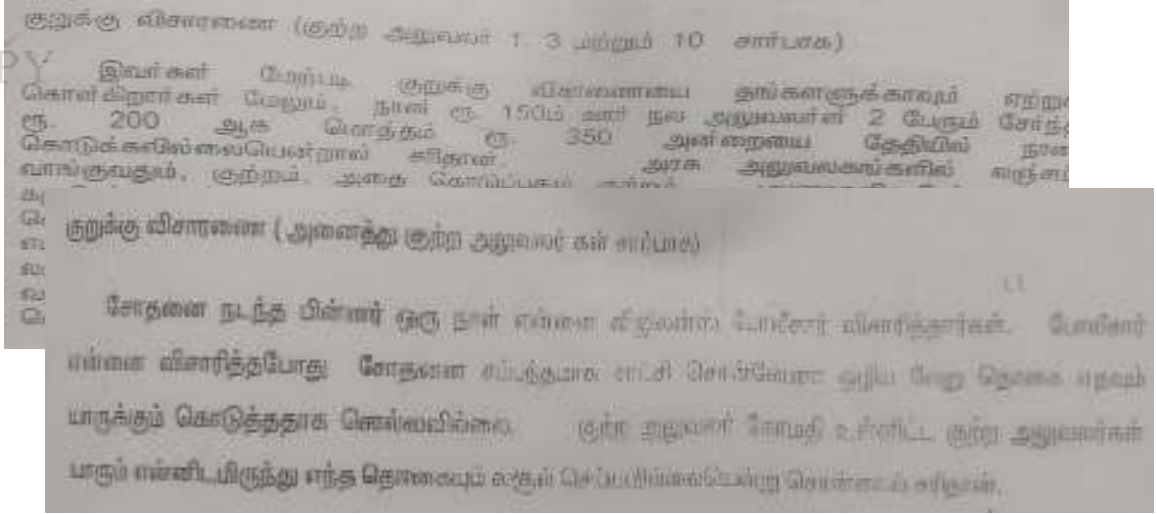
10. The petitioner has also submitted the medical prescription dated 06.02.2013 and according to the petitioner, a sum of Rs.2,000/- was in her possession only to buy medicines mentioned in the prescription dated 06.02.2013 and the same was not given by anyone. The medical bill dated 12.02.2013 for a sum of Rs.2,900/- for purchasing the medicines as per the prescription dated 06.02.2013 was also enclosed.

11. In the cross-examination, the statement of P.W.14 is extracted hereunder:-



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12. In the cross-examination, the statement of P.W.77 is extracted hereunder:-

13. The learned Senior Counsel would further submit that the incident took place on 07.02.2013 and the medical prescription is dated 06.02.2013 and the medicines was purchased by the petitioner on 12.02.2013 and hence, the allegations set out in the charge are vague in nature and especially, the evidence of P.W.14 and P.W.77 which the respondent relying is not supporting the case of the prosecution.

14. The main contention of the learned Senior counsel for the petitioner is that before passing the impugned proceedings, the first respondent has not assigned any specific reason to substantiate his findings which is in violation of principles of natural justice. He further



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submitted that only based on the opinion given by the Tamil Nadu Public Service Commission, the respondents had issued the impugned proceedings of dismissal from service.

15. Contrary to the submissions made by the learned Senior counsel for the petitioner, the learned Government Advocate appearing for the respondents submitted that on receiving a large number of complaints regarding the allegation of the District Social Welfare Officer, Thanjavur, collecting bribe from Mukhya Sevikas and Grama Sevikas of Thanjavur District, a surprise check was conducted at District Social Welfare Office, Thanjavur, wherein, the petitioner, who served as the District Social Welfare Officer was in possession of unaccounted money of Rs.2,000/- allegedly collected from the beneficiaries through the Grama Sevika and Mukhya Sevikas and thereby, she violated the Tamil Nadu Government Servant Conduct Rule 1973. Therefore, the petitioner was suspended from service under Rule 17 (e) (i) of Tamil Nadu Civil Services (Disciplinary and Appeal) Rules vide proceedings dated 18.03.2013 in Roc.No.6165/Admn.5(1)/2013 passed by the Director of Social Welfare, Chennai.



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16. The learned Government Advocate submitted that after the completion of the investigation, the Directorate of Vigilance and Anti-Corruption recommended that the case be forwarded to the Tribunal for Disciplinary Proceedings, which was accepted by the first respondent vide Government Order (3D) No16, Social Welfare and Noon Meal Programme Scheme Department, dated 30.10.2013. Thereafter, the Commissioner for Disciplinary Proceedings, Tiruchirappalli, took cognizance of the same as T.D.P.No.10A/2013 and framed charges by raising three counts of charges against the petitioner. After conducting the full-fledged enquiry, the Tribunal submitted a detailed report dated 31.03.2016 by holding that two charges out of three charges were held as proved. The petitioner has also offered an opportunity to submit her further explanation dated 05.01.2017. On receipt of the further explanation from the petitioner, the Government sought the views of the Tamil Nadu Public Service Commission in letter No.16080/Sw1/(1)/2016-9, dated 27.02.2021. Thereafter, the Tamil Nadu Public Service Commission has given its opinion to the Government on 28.04.2021 and the Government had come to the provisional conclusion of imposing the punishment of dismissal from service against the delinquent officers.



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17. A counter-affidavit has been filed by the third respondent on 21.04.2023, wherein it is stated as follows:-

“12.It is submitted that in the meanwhile the petitioner attained the age of superannuation with effect from the afternoon of 30.04.2018 and hence she was placed under suspension vide G.O.(D) No.83, Social Welfare and Nutritious Meal Programme (SW-1) Department, dated 27.04.2018 in terms of Rule 17 (e) (i) of Tamil Nadu Civil Services (hereafter termed as TNCS) (Discipline and Appeal) Rules and the Petitioner was not allowed to retire vide G.O.(2D) No. 06, Social Welfare and Nutritious Meal Programme (SW-1) Department, dated 30.04.2018 and her services were etained under FR 56 (1) (c) (4) which inter-alia states that "a Government Servant who is under suspension":

- (1) on a charge of misconduct; or*
- (i) against whom an enquiry into grave charge of criminal misconduct or allegations of criminal misconduct, is pending; or*
- (ii) against whom an enquiry into grave charge is contemplated or is pending; or*
- (iv) against whom a complaint of criminal offence is under investigation or trial.*



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In-fact a Government Servant is fully exonerated or not, he shall be considered to have been on extension of service for the period from the date of retirement to the date of termination of proceedings. During such extension of service, the service rights which have accrued to the Government Servant shall freeze at the level reached on the date of retirement and the salary during that period shall not exceed the pension which has accrued to the Government Servant on that date.

13. It is submitted that on receipt of the further explanation from the Petitioner, the Government sought the views of the Tamil Nadu Public Service Commission in letter No. 16080/SW1(1)/2016- 9, dated 27.02.2021. Based on the aforesaid Government Letter, the Deputy secretary of Tamil Nadu Public Service Commission has given the opinion of the Tamil Nadu Public Service Commission vide letter No. 1037/DCD-A2/2021-2, dated 28.04.2021 as follows:-

"The commission has gone through the records carefully in this case. After thorough scrutiny of the statement given by the various witness and other documentary evidence



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related to this case, it is revealed that there are plenty of evidence to substantiate the allegation against Tmt. P. Jeyarani, District Social Welfare Officer, Thanjavur District, and Nine (9) other officers that they have demanded and accepted illegal gratification and thereby possessed unaccounted money collected from the beneficiaries at their respective panchayat unions for recommending their application under Moovalur Ramamirtham Ammalyar Memorial Marriage Assistance Scheme and thereby, they have committed grave official misconduct, misdemeanour and failed to maintain absolute integrity and devotion to duty.

Hence for the above proven charges, the Government have taken appropriate provisional decision to impose the punishment of "Dismissal from Service" against the delinquent officers. i.e.:

- 1. P. Jeyarani, formerly District Social Welfare Officer (D.O.1),*
- 2. N.Meenambiga, formerly Rural Welfare Officer, (D.O.2),*
- 3. K.Thaiyalu, formerly Rural Welfare Officer, (D.O.3),*
- 4. P. Gomathy, formerly Extension Officer, (D.*



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- 0.4),
5. *R.Chithra, formerly Rural Welfare Officer, (D.0.5),*
6. *K.Jayanthi, formerly Rural Welfare Officer, (D.0.6),*
7. *M.Manimaegalai, formerly Rural Welfare Officer, (D.O.7),*
8. *P.Rajammal, formerly Rural Welfare Officer, (D.O.8),*
9. *G.Dhanalakshmi, formerly Rural Welfare Officer, (D.0.9) and*

10. *T.Selvi, formerly Rural Welfare Officer, (D.O.10)".*

Hence the 1 Respondent on careful consideration of all facts and on independent application of mind as well as based on the findings dated 31.03.2016 of Tribunal for Disciplinary Proceedings, Trichirappalli and the views of the Tamil Nadu Public Service Commission dated 28.04.2021, for the proven charges the Government was constrained to impose the punishment of dismissal from Government on the Petitioner herein vide G.O. (2D) No. 17, Social Welfare and Women Empowerment (SW-1) Department, dated 28.12.2021 which shall not found faulted on



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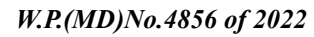
trivialities.”

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18. The learned Government Advocate appearing for the respondents submitted that the Hon'ble Supreme Court in the catena of judgments held that in the disciplinary proceedings, the Hon'ble Courts cannot function as appellate authority and the interference is warranted only when it shook the conscience of the Court. In *TNCS Corporation v. K.Meera Bai*, reported in (2006) 2 SCC 255, the Hon'ble Supreme Court held that interference is not permissible unless the order passed are clearly unreasonable or perverse or manifestly illegal or grossly unjust.

19. The learned Government Advocate further submitted that on careful consideration of all the facts as well as the findings of the Tribunal for Disciplinary Proceedings dated 31.03.2016 and the opinion of the Tamil Nadu Public Service Commission dated 28.04.2021, the petitioner was dismissed from service for the proven charges and therefore, prays for the dismissal of the writ petition.

20. Heard the learned Senior Counsel appearing for the petitioner and the learned Government Advocate appearing for the



21. The learned Senior Counsel appearing for the petitioner would submit that the explanation given by the petitioner/delinquent officer was not considered by the respondent. The respondents sought legal opinion from the Tamil Nadu Public Service Commission and its report was also not furnished to the petitioner/delinquent officer. He further submitted that a criminal case which was registered against the petitioner was dropped by the first respondent and the same was recorded by this Court in CrI.O.P.(MD) No.12436 of 2014 which was filed under Section 482 of Code of Criminal Procedure to quash the FIR in Crime No.2 of 2013 on the file of the first respondent Inspector of Police, Vigilance and Anti-Corruption Department, Thanajvur, Thanjavur District. In the said criminal original petition, the counter was filed by the respondents namely, the Inspector of Police, Vigilance and Anti-Corruption Department, Thanajvur, Thanjavur District and R.Tamilselvi, Vigilance and Anti-Corruption Department, Thanajvur, Thanjavur District, wherein it has been stated as follows:-

<https://www.mhc.tn.gov.in/judis>



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“These respondents respectfully submit that the final report was properly submitted by the first respondent after completing the investigation and requested the court to drop further proceedings against the accused. The Government recommended for Tribunal action against the petitioner/accused-1 and 9 others.

3.Since the first respondent after investigation, took a decision to drop further proceedings in pursuant to the registration of the FIR and recommended for departmental action against this petitioner/A1 and A9, nothing survives for adjudication in this petition and hence, this Criminal Original Petition is dismissed.”

22. It is pertinent to note here that in regard to Charge No.1, the petitioner was found to be in possession of unaccounted cash of Rs. 2,000/- on 7.2.2013 and the amount was collected from the beneficiaries of the petitioner's respective Panchayat Unions. Therefore, the petitioner had committed grave official misconduct in this regard. It is pertinent to mention that the names of the beneficiaries were not mentioned in the charge and it is vaguely mentioned the beneficiaries of the respective



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Panchayat Unions and the details regarding when and from whom the petitioner had collected the money are not available. Hence, the charge No.1 cannot held to be proved and the same is vague in nature. The second charge is that the petitioner had collected illegal gratification of Rs.350/- for each block during the first week of every month during her tenure, in the same manner on 07.02.2013, she collected Rs.3000/- through one Tmt.P.Gomathi, Mukkiya Sevika, Thirupanandal, however, the said Gomathi, who arrayed as the fourth accused, never disclosed that the amount was collected by the petitioner during the enquiry

23. The learned Senior Counsel also relied on the judgment rendered by the Hon'ble Supreme Court in ***Union of India and Ors., v. Gyan Chand Chattar***, reported in ***(2009) 12 SCC 78***, wherein the Apex Court has held as under:-

“20. So far as charge no.6 i.e. asking for 1% commission for making the payment of pay allowances is concerned, the learned Single Judge has appreciated the evidence of all the witnesses examined in this regard and came to the conclusion that not a single person had deposed before the Enquiry Officer that the respondent employee had asked any person to



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pay 1% commission for making payment of their allowances. It was based on hearsay statements. All the witnesses stated that this could be the motive/reason for not making the payment.

21. Such a serious charge of corruption requires to be proved to the hilt as it brings civil and criminal consequences upon the concerned employee. He would be liable to be prosecuted and would also be liable to suffer severest penalty awardable in such cases. Therefore, such a grave charge of quasi criminal nature was required to be proved beyond any shadow of doubt and to the hilt. It cannot be proved on mere probabilities.

22. Witnesses were examined before the Enquiry Officer that they have heard that the said respondent was asking but none of them was able to point out who was that person who had been asked to pay 1% commission. One of such witnesses deposed that some unknown person had told him. Learned Single Judge came to the conclusion that the knowledge of the witnesses in this regard was based on "hearsay statement of some unknown persons whom they did not know". This was certainly not legal evidence to sustain such a serious



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charge of corruption against an employee.”

24. Further, the learned Senior Counsel also relied on the order passed by this Court in a similar case in W.P.(MD) No.26540 of 2023 dated 20.12.2023 and the relevant paragraphs are extracted hereunder:-

“6.Under the impugned order in G.O(2D).No.303 Home (Police.2) Department, dated 17.07.2023, the petitioner has been imposed with capital punishment of dismissal from service for the proven charges. Paragraph No.7 of the said order reveals that along with the impugned order, a copy of TNPSC letter containing its view were communicated to the writ petitioner. Therefore, it is clear that the opinion of TNPSC was not forwarded to the writ petitioner along with second show cause notice calling for explanation.

7.The Hon'ble Supreme Court in a judgment reported in (2011) 4 SCC 591 (S.N.Narula Vs. Union of India and others) in paragraph Nos. 3 to 7 has held as follows:



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“3.It is to be noticed that the advisory opinion of the Union Public Service Commission was not communicated to the Appellant before he was heard by the disciplinary authority. The same was communicated to the Appellant along with final order passed in the matter by the disciplinary authority.

4.The Appellant filed O.A. No. 1154/2002 before the Central Administrative Tribunal, New Delhi and Tribunal held that there was violation of principles of natural justice and the following direction was issued:

“We are of the considered opinion that this order is a non-speaking one and as such we are of the view that the same cannot be sustained and is liable to be quashed. Accordingly, we quash the impugned order and remand the case back to the disciplinary authority to pass a detailed reasoned and speaking order within a period of 3 months from the date of receipt of a copy of this order in accordance with instructions and law on the subject.”

5. This order was challenged by the Union of India by way of Writ Petition before the High Court of Delhi and by the



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impugned judgement the High Court interfered with the order.

The writ petition was partly allowed and it was directed that the matter be again considered by the Tribunal. Against that order the appellant has come up in appeal by way of special leave petition.

6.We heard the learned counsel for the appellant and the learned counsel for the respondent. It is submitted by the counsel for the appellant that the report of the Union Public Service Commission was not communicated to the appellant before the final order was passed. Therefore, the appellant was unable to make an effective representation before the disciplinary authority as regards the punishment imposed.

7.We find that the stand taken by the Central Administrative Tribunal was correct and the High Court was not justified in interfering with the order. Therefore, we set aside the judgment of the Division Bench of the High Court and direct that the disciplinary proceedings against the appellant be finally



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disposed of in accordance with the direction given by the Tribunal in para 6 of the order.
The appellant may submit a representation within two weeks to be disciplinary authority and we make it clear that the matter shall be finally disposed of by the disciplinary authority within a period of three months thereafter.”

8.The Hon'ble Supreme Court in a judgment reported in (2014) 7 SCC 340 (**Union of India and others Vs. R.P.Singh**) after following the judgment reported in (2011) 4 SCC 591 (**S.N.Narula Vs. Union of India and others**) in paragraph No.12 has held as follows:

“12.... The said decision of S.N.Narula case is an authority for the proposition that the advice of UPSC, if sought and accepted, the same, regard being had to the principles of natural justice, is to be communicated before imposition of punishment.”

9.The Hon'ble Supreme Court in a judgment reported in (2011) 4 SCC 589 (**Union of India and others Vs.S.K.Kapoor**) in paragraph No.8 has held as follows:



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“8. There may be a case where the report of the Union Public Service Commission is not relied upon by the disciplinary authority and in that case it is certainly not necessary to supply a copy of the same to the employee concerned. However, if it is relied upon, then a copy of the same must be supplied in advance to the employee concerned, otherwise, there will be violation of the principles of natural justice. This is also the view taken by this Court in the case of S.N.Narula vs. Union of India.”

10.A consolidated reading of the judgment of the Hon'ble Supreme Court makes it clear that whenever the Disciplinary Authority relies upon the report of TNPSC, a copy of the same has to be furnished. If the same is not furnished to the delinquent before imposition of punishment that would be in violation of principles of natural justice. In the present case, a perusal of the order impugned in the writ petition reveals that up to paragraph No.3, the proceedings that are prior to the second show cause notice have been recorded. Paragraph No.4 extracts the opinion offered by TNPSC. Paragraph No.5 clearly points out that the Government has examined



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the case in the light of the views expressed by TNPSC. Paragraph No.7 reveals that along with the order of dismissal, a copy of the letter of TNPSC has been enclosed. Therefore, it is clear that the Disciplinary Authority has relied upon the opinion of Public Service Commission, but they have not annexed the said opinion with the second show cause notice calling for explanation from the writ petitioner. Therefore, there is clear violation of principles of natural justice.”

25. The learned Senior Counsel would submit that the charges were framed against the petitioner/delinquent officer by the proceedings of the Tribunal for Disciplinary Proceedings, Trichy in TDP.No.10H/2013 dated 03.07.2014. On receipt of the above said charge memo, the petitioner/delinquent officer has submitted a detailed explanation through her Advocate on 08.02.2016. Thereafter, the extract of the enquiry report was furnished to the petitioner on 16.12.2016 in which out of three counts of charges two were proved and the third charge was not proved. The first respondent has imposed the punishment of “dismissal from service” for the said proven charges by his impugned proceedings dated 28.12.2021 based on the opinion given by the TNPSC.



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The main contention of the learned Senior Counsel is that the first respondent has not assigned any valid reason for imposing the punishment and failed to adduce evidence in support of the allegation levelled against the petitioner thereby, amounts to violation of principles of natural justice.

26. Learned Senior Counsel would further submit that the opinion of the TNPSC is only recommendatory nature but not mandatory, the competent authority is duty bound to apply his mind independently before passing the order and therefore, the impugned order is bad in law. Moreover, before passing of the impugned order, the copy of the opinion made by the TNPSC was not communicated to the petitioner/delinquent officer by the first respondent and further, no opportunity was given to her on the adverse report and therefore, communicating the opinion of TNPSC along with the impugned proceedings is liable to be quashed.

27. In the light of the above factual matrix of the case and the ratio laid down in the judgments of the Hon'ble Supreme Court in *Union of India and Ors., v. Gyan Chand Chattar*, reported in (2009) 12



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SCC 78, Union of India and others Vs. R.P.Singh, reported in (2014) 7 **SCC 340** following the judgment in **S.N.Narula Vs. Union of India and others** reported in (2011) 4 SCC 591 and the order of this Court in W.P. (MD) No.26540 of 2023 dated 20.12.2023, the impugned order passed by the first respondent in Government Order (2Pa)No.17 dated 28.12.2021, is liable to be quashed and accordingly, the same is quashed.

28. In the result, the writ petition stands allowed. Consequently, the connected miscellaneous petitions are closed. No costs.

29.10.2024

Index : Yes / No

Internet : Yes / No

PKN

To

1.The Principal Secretary to Government,
State of Tamil Nadu,
Social Welfare and Women Empowerment Department,
Secretariat, Chennai 9.

2.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Social Welfare and Nutritious Noon Meal
Programme Department,



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Secretariat, Chennai 9.

3.The Director of Social Welfare
and Women Empowerment Department,
Commissionerate of Social Welfare,
Panagal Building 2nd Floor,
Saidapet, Chennai 15.



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J.SATHYA NARAYANA PRASAD, J.

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29.10.2024