**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 25.11.2024**

**CORAM :**

**THE HONOURABLE MR.JUSTICE M.S.RAMESH**
**and**
**THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.P(MD)No.23323 of 2024**

V.S.Arul Rajan ... Petitioner

vs.

1. Registrar General,
High Court of Judicature at Madras,
High Court Road, Parry's Corner,
George Town, Chennai,
Tamil Nadu – 600 104.

2. Additional Registrar General (I/c),
Madurai Bench of Madras High Court,
Melur Main Road, Ulaganeri,
Tamil Nadu – 625 023. ... Respondents

**Prayer :** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records connected with the Impugned Order issued by the 1st respondent in ROC.No.25589/2020/Estt.II/MB and ROC.No.23351-A/2021/B3/MB, dated 15.07.2022, and quash the same.

For Petitioners : Mr.Sriram Venkatavaradan
For Respondents : Mr.N.Tamilmani

**ORDER**

**(**Order of the Court was made by **M.S.RAMESH, J.)**

The petitioner herein, while working in the Madurai Bench of the Madras High Court, was levelled with the following three charges under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeals) Rules, 1955, through a charge memo dated 28.07.2021:

*"<u>CHARGE No.1</u>*

*That you, Thiru. V.S.Arulrajan, formerly P.S. to the Hon'ble Judges, now Sub Assistant Registrar (Insolvents, Accounts), High Court, Madras, while working in the Madurai Bench of Madras High Court, Madurai, were habitually indulging in lending money for interest to the Madras High Court staff members and also running Chit Fund, against Rule 6 & 7 of the Tamil Nadu Government Servants' Conduct Rules, 1973.*

*By your above action, you failed to maintain absolute integrity and devotion to duty and thereby you exhibited the conduct unbecoming of a Government Servant and violated the provision of Rule 20 of Tamil Nadu Government Servants' Conduct Rules, 1973.*

*<u>CHARGE No.2</u>*

*That you, Thiru. V.S.Arulrajan, formerly P.S. to the Hon'ble Judges, now Sub Assistant Registrar (Insolvents, Accounts), High Court, Madras, have a bank account viz., A/c No. 722637937 with Indian Bank, High Court Branch, Madurai, wherein, several transactions were made by the individuals with whom you had official dealings and others, in violation of Rule 6 & 7 of the Tamil Nadu Government*

*Servants' Conduct Rules, 1973.*

*By your above actions, you failed to maintain absolute integrity and devotion to duty and thereby you exhibited the conduct unbecoming of a Government Servant and violated the provision of Rule 20 of the Tamil Nadu Government Servants' Conduct Rules, 1973.*

*<u>CHARGE No.3</u>*

*That you, Thiru. V.S. Arulrajan, Sub Assistant Registrar (Insolvents, Accounts), High Court, Madras, were a member of a Chit Fund run by your cousin brother, however, you have neither obtained any permission, nor submitted any intimation or disclosed the same in the Statements of Return of Assets and Liabilities submitted by you as stipulated under Rule 6, 7 and 8 of the Tamil Nadu Government Servants' Conduct Rules, 1973.*

*By your act of wilful suppression of fact you failed to maintain absolute integrity and devotion to duty and thereby you exhibited the conduct unbecoming of a Government Servant and violated the provision of Rule 20 of the Tamil Nadu Government Servants' Conduct Rules, 1973."*

2. Not being satisfied with the explanation rendered by the petitioner, he was subjected to an enquiry. On conclusion of the enquiry, while the first charge was held as not proved, charges 2 and 3 were held as proved through the report of the enquiry officer dated 13.12.2021. The copy of the enquiry report was furnished to the petitioner, to which he had rendered his further explanation on 07.01.2022. Rejecting the objections raised therein, the 1st

respondent herein had passed the order of punishment dated 01.04.2022, imposing a punishment by withholding of three increments, with cumulative effect. The review petition against the order of punishment was rejected by the 1st respondent herein on 15.07.2022. So also, the mercy petition. Challenging the order of punishment, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that charges 1 and 2 relate to bank transactions, for which, he has rendered his explanation stating that he had given some small hand loans to his colleagues, without interest, which were returned by them. In spite of his explanation given, the enquiry officer had held the second charge as proved. Likewise, the petitioner has also rendered his explanation to the third charge, stating that he has only joined as a member of the chit fund run by his cousin brother and he was unaware that he had to inform the Registry about the membership, which aspect was not properly appreciated by the enquiry officer. Learned counsel further submitted that under the proviso to rule 6 of the Tamil Nadu Government Servants' Conduct Rules, 1973, lending of small amounts, not exceeding the total monthly emoluments, free of interest, was permissible, which aspect has not been properly appreciated by the disciplinary authority and therefore, sought for interference to the order of punishment.

4. The learned standing counsel appearing for the respondents submitted that the entire charges were levelled against the petitioner based on his bank statements. According to the learned counsel, there were several transactions made by the individuals in the petitioner's bank account, which is impermissible and in violation of rules 6 and 7 of the Tamil Nadu Government Servants' Conduct Rules, 1973. Likewise, being a member of the chit fund, without prior intimation to the Registry, is also impermissible. According to him, the enquiry officer had taken into account the various transactions in the bank statements of the petitioner and had held the charges 2 and 3 as proved and therefore, there was no perversity in such findings. This apart, the learned counsel urged that the entire disciplinary proceedings was made after extending due opportunities to the petitioner and the principles of natural justice was strictly adhered to and therefore, the order of punishment cannot be found fault with.

5. We have perused the enquiry report, for the limited purpose of exploring as to whether there was any perversity in the findings of the enquiry officer.

6. Insofar as the second charge is concerned, the charge against the petitioner was that there were several transactions made by the individuals,

with whom, the petitioner had official dealings, which is in violation of the rules. The enquiry officer had placed reliance on the evidence of PW3, who is the Assistant Section Officer in the Registry, through whom, the bank statement-Ex.P3 was marked. From the bank statement, the enquiry officer had taken into account the several credit entries on different dates in the petitioner's account. During the course of cross examination, the petitioner appears to have given explanation to all the individual bank transactions. However, the enquiry officer appears to have consolidated the entire transactions into monthly statements for the period between November 2018 and February 2021, and had taken adverse notice of the total transaction of Rs.1,87,000/- for the month of December 2018, Rs.2,50,000/- for the month of October 2019 and Rs. 2,14,000/- for the month of November 2020, were over and above his net salary for the respective months. On the basis of these three consolidated monthly credit entries alone, the second charge appears to have been held as proved. However, in the entire report, there is no discussion with regard to the explanation rendered by the petitioner for the said transactions.

7. Let us now examine the correctness of the procedure adopted by the enquiry officer, in consolidating a few transactions in the bank statements of the petitioner and making a comparison of it with the total monthly emoluments and its permissibility under Rules 6(4)(a) and 6(4)(aa) of the Tamil

Nadu Government Servants Conduct Rules, 1973. For the sake of convenience, these rules are extracted hereunder:

> *"6. Investments, lending and borrowing – (1) No Government servant shall speculate in any stock, share or other investment.*
>
> *(4) (a) No Government servant shall, save in the ordinary course of business with a bank or a firm or a Public Limited Company of standing, duly authorised to conduct banking business either himself or through any member of his family or any other person acting on his behalf -*
>
> *(i) lend or borrow money, as principal or agent, to or from any person within the local limits of his authority or with whom he is likely to have official dealings, or otherwise place himself under any pecuniary obligation to such person, or*
>
> *(ii) lend money to any person at interest or in a manner whereby return in money or in kind is charged or paid:*
>
> *Provided that a Government servant may, give to or accept from, a relative or a personal friend, a purely temporary loan of a small amount not exceeding "his total monthly emoluments" free of interest, or operate a credit account with a bona fide tradesman or make an advance of pay to his private employee:*
>
> *6 (4) (aa) No Government servant shall, either himself or through any member of his family or any*

*other person acting on his behalf, except with the previous sanction of the Government, lend or borrow money to or from any private individual any amount exceeding "his total monthly emoluments".*

8. Rule 6(4)(a)(i) places an embargo on a Government servant to lend or borrow money, as Principal or Agent, to or from any person, or place himself under any pecuniary obligation to such person. Rule 6(4)(a)(ii) likewise prohibits the Government Servant to lend money to any person at interest. The proviso to these rules carves out an exception to the Government Servant, to give or accept temporary loan of small amounts, at free of interest, which should not exceed his total monthly emoluments. Rule 6(4)(aa) imposes a pre-condition to obtain the previous sanction of the Government, while lending or borrowing money to or from any private individual, which amount should also be below his total monthly emoluments.

9. The aforesaid rules do not, in any way, order or indicate the clubbing of several transactions of lending or borrowing within a month, for the purpose of a comparison to be made with the Government employee's total monthly emoluments. The object of the rule also intends to prohibit a Government employee, from lending money on interest and at the same time, permit him to lend or borrow temporary loans of a small amount, with the prior

sanction of the Government, which amount should be lesser than his total monthly emoluments. There could be instances, like the case in hand, when a Government employee borrows or lends amount lesser than his monthly emoluments, from or to, more than one person, to which, there is no prohibition under the aforesaid rules.

10. The defence taken by the petitioner for the credit entries in his bank statement is that he had lent small amounts of money, to more than one individual, in order to meet their financial emergencies, which amounts were repaid by them to his bank account. It is also his specific case that the small hand loans were given without any interest. The enquiry officer, while dealing with the first charge, had placed reliance on PW1 and PW2, and had come to the conclusion that the department had failed to prove that the petitioner was habitually indulging in money lending activities at interest, to other staff members and had thus come to the conclusion that the first charge was not proved.

11. The enquiry officer, however, has adopted a novel method of clubbing all the transactions in a month and making the comparative study with the total monthly emoluments of the petitioner, which is not the mandate under Rule 6(4)(a). On the other hand, the appropriate mode to be adopted should

have been, to make a comparative study of individual credit entries, with that of the petitioner's total monthly emoluments. While that being so, the enquiry officer had misconstrued the service rules and rendered a finding on facts. Therefore, such a finding is deemed to have been arrived at on the basis of 'No evidence' and thus, would be a perverse finding, which could be interfered by this Court, under Article 226 of the Constitution of India.

12. However, Rule 6(4)(aa) imposes a pre-condition to seek for prior permission of the Government, before borrowing or lending any money from or to any private individuals, exceeding his total monthly emoluments. Admittedly, the petitioner herein has not sought for such prior permission and thus, there will be an infraction of this procedure alone, insofar as the second charge is concerned.

13. Now that we have found that the delinquency of the petitioner in not obtaining the prior permission of the Government, while giving loans to individuals, has alone been committed, which delinquency is also not so grave, to warrant a major punishment, it would be appropriate to reduce the punishment.

14. In our view, the punishment of 'censure' would be appropriate in the given case.

15. Accordingly, the impugned order passed by the 1st respondent in ROC.No.25589/2020/Estt.II/MB and ROC.No.23351-A/2021/B3/MB, dated 15.07.2022, is quashed and the Writ Petition stands partly allowed. No costs.

**(M.S.R, J.) (A.D.M.C, J.)**
**25.11.2024**

Index : Yes / No
Neutral Citation : Yes / No
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To

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High Court of Judicature at Madras,
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Tamil Nadu – 600 104.

2. The Additional Registrar General (I/c),
Madurai Bench of Madras High Court,
Melur Main Road, Narasingam,
Tamil Nadu – 625 023.

**M.S.RAMESH, J.**
**and**
**A.D.MARIA CLETE, J.**

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**ORDER MADE IN**
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