



W.P.(MD)No.23981 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 25.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.23981 of 2017

and

W.M.P.(MD)Nos.20140 and 20141 of 2017

L.Devaraj

... Petitioner

versus

1. The State of Tamilnadu,
Rep. by its Secretary,
Department of Adi Dravidar and
Tribal Welfare Department,
Fort St. George, Chennai – 600 009.
2. The Director / Commissioner,
Adi Dravidar and Tribal Welfare
Department,
Chepauk,
Chennai – 600 005.
3. The District Adi Dravidar and
Tribal Welfare Officer,
The District Collectorate,
Nagercoil, Kanyakumari District.
4. The Headmaster,
Government Tribal Residential
Higher Secondary School,
Pechiparai,
Kanyakumari District.

... Respondents



W.P.(MD)No.23981 of 2017

WEB COPY

Writ Petition filed under Article 226 of Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records relating to the impugned G.O.(Ms.)No.108, dated 31.08.2015 issued by the 1st respondent State Government (received on 19.01.2016) confirming the order of the 2nd respondent Director in Ref.No.A1/16970/2005 dated 18.03.2008 and quash the same.

For Petitioner : Mr.T.Cibichakraborty

For Respondents : Mr.K.Balasubramani,
Special Government Pleader

ORDER

The petitioner has filed this writ petition, challenging the G.O. (Ms.)No.108, dated 31.08.2015, issued by the 1st respondent, confirming the order of punishment passed by the 2nd respondent, dated 18.03.2008.

2. The petitioner, while serving as Headmaster of Government Tribal Residential Higher Secondary School, Pechiparai, Kanyakumari District, was issued with a charge memo dated 25.10.2006, under Rule 17(b) of the Tamil Nadu Civil Service (Discipline and Appeal) Rules. After conducting an inquiry, the disciplinary authority, by his proceedings dated 18.03.2008, passed a final order, imposing a punishment of stoppage of increment for a



W.P.(MD)No.23981 of 2017

period of two years with cumulative effect. Challenging the same, the petitioner has filed an appeal before the first respondent. The first respondent, vide G.O.(Ms.)No.108, dated 31.08.2005, rejected the petitioner's appeal, confirming the punishment imposed by the disciplinary authority. Therefore, the petitioner has filed this writ petition.

3. The learned counsel appearing for the petitioner submits that the petitioner was issued with the charge memo that the records have not been maintained in the School. It is the duty of the Junior Assistant and the Assistant to maintain the records/registers in the School. However, for the mistake committed by the Junior Assistant and the Assistant, the petitioner was held responsible as a supervising authority as he failed to monitor the same. He further submits that the Department has not issued any separate charge memo against the Junior Assistant and the Assistant, who failed to maintain the records/registers in the School.

4. The learned counsel for the petitioner further submits that the charge memo refers to certain documents. Though it has been mentioned in the charge memo that the documents are annexed in Annexure-III, no documents have been furnished to him, even after the request made by the



W.P.(MD)No.23981 of 2017

petitioner on 20.11.2006. Since the relied upon documents were not furnished to the petitioner, he has not effectively participated in the disciplinary proceedings. Therefore, the disciplinary proceedings has to be vitiated for non-supply of documents.

5. The learned counsel for the petitioner further submits that the enquiry was concluded in a single day. The enquiry was originally fixed on 17.03.2007 and it was postponed to 24.03.2007 in view of the public examination. On 24.03.2007 itself, the inquiry was concluded without providing sufficient opportunity of hearing to the petitioner. After the enquiry, the disciplinary authority has passed the order of punishment in a cryptic manner, without any discussion as to the explanations offered by the petitioner for the charges.

6. The learned counsel for the petitioner also pointed out that the views of the TNPSC have not been obtained by the disciplinary authority before imposing the punishment. However, it was obtained by the appellate authority. The views of the TNPSC ought to have been obtained by the disciplinary authority and not by the appellate authority. Therefore, on these grounds, the learned counsel requests to interfere with the order of



W.P.(MD)No.23981 of 2017

punishment issued against the petitioner.

WEB COPY

7. The learned counsel has also relied upon the order of this Court in W.P.No.22943 of 2015 dated 05.04.2022 and submits that the appellate authority is not supposed to take a decision in a mechanical manner, based on the views of the TNPSC alone. The learned counsel further submits that the appellate authority in this case has taken the decision only based on the views of the TNPSC.

8. The learned Special Government Pleader submits that several complaints were received against the petitioner by various authorities and also by the Chief Minister Cell. The Special Division of the Chief Minister Cell forwarded the complaint to the Director of Adi Dravidar Welfare, Chennai and to the District Collector, Kanyakumari District, to conduct an enquiry and file a detailed report. Based on the recommendations of the Special Division for Chief Minister Cell and the Director of Adi Dravidar Welfare, the District Collector, Kanyakumari District, has conducted a surprise inspection along with his team in the Government Tribal Residential Higher Secondary School, Pechipparai, Kanyakumari District, on 09.09.2006. The District Collector has noted down several delinquencies



W.P.(MD)No.23981 of 2017

committed by the petitioner and also recommended to the Director of Adi Dravidar Welfare, Chennai, for initiating a departmental proceedings.

Accordingly, the second respondent, namely, Director of Adi Dravidar Welfare, Chennai, has issued the charge memo to the petitioner on 25.10.2006 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. After receiving the charge memo, the petitioner has offered his explanation on 24.11.2006. Thereafter, as per the proceedings of the second respondent in Na.Ka.No.G1/16970/2005, dated 26.12.2006, an Enquiry Officer was appointed. Initially, the enquiry was fixed on 17.03.2007. The petitioner, by his letter dated 16.03.2007, requested the Enquiry officer to postpone the enquiry that the annual examinations are taken place. On the request made by the petitioner, the enquiry was postponed to 24.03.2007 and on that day, the enquiry was conducted.

9. The learned Special Government Pleader further submits that after considering the written explanations given by the petitioner and the charges, the Enquiry Officer has filed his report on 28.03.2007 that all the three charges levelled against the petitioner were substantiated. Based on the enquiry report, the second respondent, namely, the Director of Adi Dravidar



W.P.(MD)No.23981 of 2017

Welfare, vide his letter in Na.Ka.No.G1/16970/2005 dated 18.04.2007, has called for a further explanation from the petitioner. The petitioner, by a letter dated 19.10.2007, has requested to furnish the enquiry report as it has not been furnished to him. Subsequently, the enquiry report was also furnished to him. Thereafter, the petitioner, by a letter dated 10.01.2008, has submitted his further explanation. Based on the petitioner's further explanation, the second respondent, namely, the Director of Adi Dravidar Welfare, Chennai, has passed the final order dated 18.03.2008, imposing a punishment of stoppage of increment for a period of two years with cumulative effect and also ordered to recover the monetary loss caused by the petitioner to the Government to the tune of Rs.81,700/-. As against the order of punishment, the petitioner has preferred an appeal before the first respondent.

10. The learned Special Government Pleader further submits that the first respondent obtained views of the Tamil Nadu Public Service Commission as per Regulation 18(1) of Tamil Nadu Public Service Commission Regulations, 1954 and after considering the enquiry report, explanations given by the petitioner and the views offered by the TNPSC by



W.P.(MD)No.23981 of 2017

its letter dated 17.07.2013, the first respondent, vide G.O.Ms.No.108, dated 31.08.2015, rejected the appeal by confirming the punishment order passed by the disciplinary authority. Therefore, according to the learned Special Government Pleader, the procedure has not been violated at any point of time.

11. The learned Special Government Pleader further submits that the second respondent/the Director of Adi Dravidar Welfare, Chennai, is the appointing authority for the post of Higher Secondary School Headmaster, therefore, the second respondent is the competent authority to conduct the disciplinary proceedings and to pass the order of punishment. The appeal was also decided by the first respondent/the Secretary, Department of Adi Dravidar Welfare, Chennai. Therefore, there is no issue with regard to the jurisdiction of the disciplinary authority and the appellate authority.

12. The learned Special Government Pleader further submits that the Headmaster is the administrative head of the Higher Secondary School and he is also the Drawing and Disbursing Officer of the School. The petitioner was the Headmaster of the Government Tribal Residential Higher Secondary School, Pechipparai, Kanyakumari District and he was



W.P.(MD)No.23981 of 2017

responsible for the administration of the School and he is also expected to supervise the subordinates and handle the bank accounts of the School. The enquiry report of the District Collector reveals that none of the Registers have been maintained in the School. Therefore, the disciplinary authority has considered the case of the petitioner along with the enquiry report and taken the decision.

13. The learned Special Government Pleader further submits that it is not the delinquency of the Junior Assistant and Assistant. This is the delinquency committed by the petitioner, for which, he alone was dealt with the disciplinary proceedings and charges were framed against him and thereafter, he was imposed with the punishment. With regard to the argument made by the learned counsel appearing for the petitioner that the documents annexed in Annexure III of the charge memo have not been furnished to the petitioner, the learned Special Government Pleader submits that the petitioner was issued with a charge memo and some of the documents were referred to in Annexure III of the charge memo. The petitioner in fact has made a vague representation on 20.11.2006 that the relied upon documents have not been furnished to him. The learned Special



W.P.(MD)No.23981 of 2017

Government Pleader, based on the instructions provided to him by a staff, who is assisting him, submits that the petitioner was permitted to peruse the documents. The learned Special Government Pleader has also pointed out that inquiry was scheduled to be conducted on 17.03.2007. The petitioner, by his letter dated 16.03.2007 has made a request to postpone the enquiry to 24.03.2007 by referring the public examinations conducted during the relevant period. But, in the said representation dated 16.03.2007, the petitioner has not made any averment that he was not provided with any documents and he was not permitted to peruse the documents.

14. The learned Special Government Pleader has also relied on the subsequent representation made by the petitioner on 19.10.2007 requesting for the inquiry report. When the second respondent/the Director of Adi Dravidar Welfare, by his proceedings dated 18.04.2007, called for a further explanation from the petitioner as to the report filed by the Enquiry Officer, this petitioner has submitted a representation on 09.10.2007 that he was not provided with the enquiry report. Even in the letter dated 09.10.2007, the petitioner has not pointed out that the enquiry itself was conducted without furnishing the relied upon documents to him. Thereafter, the inquiry report



W.P.(MD)No.23981 of 2017

was furnished to the petitioner. He has also offered his further explanation by his letter dated 10.01.2008. The learned Special Government Pleader pointed out that even in the letter dated 10.01.2008, the petitioner has not insisted for any documents or has not taken any ground that the enquiry is conducted without furnishing the relied upon documents or not allowing him to peruse the documents relied upon by the enquiry officer. The learned Special Government Pleader further submits that the charge against the petitioner is that he failed to maintain any Register in the School. The charge itself exposes the nature of delinquency that the petitioner has not maintained any documents/registers and also exposes the manner in which the delinquency has been committed by this petitioner.

15. The learned Special Government Pleader further submits that the order of punishment is not the cryptic order as projected by the petitioner. The disciplinary authority has imposed a punishment of stoppage of increment for a period of two years with cumulative effect. This is only a minor punishment. For this nature of punishment, there is no requirement for getting the opinion of TNPSC. The learned Special Government Pleader has also relied on Regulation 18(1) of Tamil Nadu Public Service



W.P.(MD)No.23981 of 2017

Commission Regulations, 1954 and submits that it is in the form of recommendation and the State Government, propose to pass a major punishment, may consult the Public Service Commission. The learned Special Government Pleader further submits that the views obtained by the appellate authority is as per Regulation 18(1)(a) of Tamil Nadu Public Service Commission Regulations, 1954 and it is not the opinion which is required under Regulation 18(1)(a) of Tamil Nadu Public Service Commission Regulations 1954.

16. This Court considered the rival submissions made and perused the materials placed on record.

17. The petitioner was issued with a charge memo by the second respondent/the Director of Adi Dravidar Welfare, on 25.07.2006, based on the enquiry report of the District Collector, Kanyakumari, while he was serving as Headmaster of the Government Tribal Residential Higher Secondary School, Pechiparai, Kanyakumari District. On receipt of several complaints and also on the directions of the Special Division of the Chief Minister Cell, the District Collector, Kanyakumari, has conducted an inspection in the petitioner School and noted down certain shortcomings



W.P.(MD)No.23981 of 2017

found in the administration of the school. The District Collector has also noted down certain shortcomings related to the budget and school furniture.

Based on the inspection report dated 09.09.2006, the second respondent/the Director of Adi Dravidar and Tribal Welfare Department initiated disciplinary proceedings by issuing a charge memo dated 25.10.2006 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, for the following charges:

Charge No.1:

The petitioner had abetted the commission of certain irregularities by his Assistant & Junior Assistant, while he was serving as the Headmaster of Government Tribal Residential Higher Secondary School, Pechiparai, Kanyakumari District, during the period from 28.11.2004 to 25.10.2006. Due to this, he earned a bad name for the Department.

With respect to the Assistant:

- i. After 19.09.2005 no letters have been entered in the SR Register.
- ii. No records were maintained and there was not even a single record.
- iii. The SR Register was not written year-wise and not



maintained.

iv. He had failed to audit the SR Register very month and also failed to inspect the staff and their work.

v. The Attendant Registers of the Teaching and Non-Teaching staff were not maintained properly.

vi. Causal Leave Registers of the Teaching and Non-Teaching Staff were not maintained properly. The Casual Leave Applications were not shown in the Audit.

vii. Several teachers were on Leave on Loss of Pay on the basis of Medical Certificates, as reflected in the Attendance Register. But the applications were not kept in files and not duly maintained; Permission was not granted for these leave applications and there was no corresponding entry in the Service Register. There were no Re-Appointment Orders issued by the Appointing Officer to the teachers who took leave for a period exceeding 30 days. The following are the names of the respective teachers.

1. Mrs.A.Mahalakshmi, PG Assistant in Tamil from 08.11.2005 – 25.11.2005.

2. Mr.Ragavan, PG Assistant in Commerce from 08.11.2005 – 21.11.2005.

3. Mrs.Jeevaselvi, Secondary Grade Teacher from 08.11.2005 – 15.11.2005.

4. Mrs.K.G.Jaysree, Secondary Grade Teacher 11.05.2005 – 01.06.2005.

5. Mrs.Thangarinda, PG Assistant from 30.03.2004 –



15.04.2004, 21.06.2006 – 15.07.2006 and 18.07.2006 – 13.08.2006.

viii. There were no separate Records/Registers maintained for free slates, Note Books, Books, uniform, guides and question banks for the academic years 2005-2006 and 2006-2007.

ix. No steps were taken for receiving Community Certificates from the SC/ST students studying in the 10th and 12th standards for the year 2006-2007. No files were maintained. Though question banks were received from the District Adi Dravidar and Tribal Welfare Officer, they were not issued to the 10th standard students, and they were issued only at the time of inspection by the Kanyakumari Adi Dravidar and Tribal Welfare Officer.

With respect to the Junior Assistant:

x. In the said post also letters were received but there were no corresponding entries made to that effect. Service Register was not maintained for the years 2004, 2005 and 2006. There was not even a single record. There was no Auditing of any sort undertaken by the Headmaster.

xi. Despite being aware of the order prohibiting any sort of fee collection from the SC/ST/SCC students, the Headmaster, in the years 2005-2006 & 2006-2007 collected fee from the above category of students without any receipts



and there were no year-wise records for the fee collected. There were neither any vouchers nor any cash books maintained.

xii. There were no proper accounts and receipts maintained for the deposits and withdrawals in the auditing of Bank Books.

xiii. The amount which was given under S.S.A. Scheme was not spent properly.

Charge No.2:

While the petitioner was serving as the Headmaster of the Government Tribal Residential Higher Secondary School, Pechiparai, Kanyakumari District, the petitioner caused severe loss to Government funds and created a bad name for the Department, due to several discrepancies in the income-expenditure statements of the School.

i. Bank Cash Book was not maintained in the office to check the income – expenditure of the SSA Account, which is being maintained at the Primary Agricultural Co-operative Bank, Pechiparai in Account No.613. The tally of Bank Pass Book and the Office Cash Book was not done for any month. Moreover, tally could not have been done since the Cash Book was not maintained.

ii. It has been stated in the Income-expenditure statements that a Bero of 5 ½ feet was purchased from



R.M.Rolling Shutter Industries, Thituvattar, on 06.01.2006 in Bill No.386. But no such bero has been purchased in reality (SSA Register page 7).

iii. It has been entered that Poovarasam timber was purchased for Rs.1,670/- on 09.01.2006 from Eee. Eee. Timber & Johnson Raw Mill, Johnson Nagar, Asaripallam Post in Bill No.400 and Voucher Nos.57, 58 for the purpose of making desk and that one Mr.Jospeh from Kulasekaram was paid Rs.330 for the labour Charge of making desk in 6 ½ x 1 ½ measurements and a receipt dated 09.01.2006 was given and subsequently altered as 10.01.2006. But, no such desk has been made.

iv. It has been mentioned that on 03.01.2006 Rs.5000/- was spent towards white washing of the Physics lab and repairing wall cracks. But it was actually done by the District Adi Dravidar and Tribal Welfare Officer, Kanyakumari on 24.02.2006. On the same day Rs.6000/- was spent towards the repairing work of broken Lab pipe and cut off electric wires and there was no maintenance. There are no vouchers for the expenditures after 28.03.2006.

v. There was a deposit of Rs.5980/- in the Bank pass book on 12.07.2006 and a withdrawal of Rs.6000/- on 27.07.2006. But, no details for expenses have been entered. It has been stated in the accounts that a total sum of Rs.7500/- was spent, Rs.5250/- towards salary for 2



WEB COPY



W.P.(MD)No.23981 of 2017

computer vouchers and Rs.2250/- towards electrical expenses. But there are no proper receipts for the same. There has been no maintenance of record or account regarding withdrawals from bank and their respective purposes.

vi. There is no cash book for the Indian Overseas Bank, Kulasekaram, Account No.7985/IOB, Kulasekaram. Hence accounts could not tally with the money transactions made through the pass book. There was a bank balance of Rs.74,201.45/- as on 09.08.2006.

Bank Account No.19604/IOB, Kulasekaram:

It has been stated that P.T.A. accounts are being maintained through this Account. But there is no cash book for the same. There was a Bank balance of Rs.11,151.20/- as on 06.09.2006.

The following are the Income expenses details as entered in the Pass Book.

Deposit		Withdrawal	
Date	Rupees	Date	Rupees
4.1.2006	7253.20	31.1.2006	1000.00
9.1.2006	28036.00	31.1.2006	25433.00
8.2.2006	4564.00	15.3.2006	1000.00
20.2.2006	2440.00	31.3.2006	7428.00
27.3.2006	9295.00	18.4.2006	10420.00
4.7.2006	9297.00	2.6.2006	453.00



7.7.2006	11550.00	7.7.2006	1000.00
		25.7.2006	7579.00
		9.8.2006	5315.00
		17.8.2006	1000.00
		6.9.2006	1364.00

There are no vouchers for the expenditures made from the amounts withdrawn from the bank.

Bank Account No.32744/IOB, Kulasekaram:

It has been stated that the above account was maintained for Scholarship purposes. But there is no cash book for this Account as well. Further, there are no details for the payment of Rs.803/-. There was a withdrawal of Rs.39,325/- on 18.03.2006 and Rs.28,761/- on 30.06.2006. But there are no Records maintained to verify the details.

vii. There are no details pertaining to either the grant of Scholarship amount or the disbursement for the academic year 2005-2006.

No office copy was produced for the Education Scholarship granted for the year 2005-2006. Utilization Certificate was not sent till date for the disbursement of Education Scholarship to the students for the years 2004-2005 and 2005-2006. It has been stated that the Accounts were maintained for the amounts received through



an Acquittance Register, but, no such Register has been produced. Account No.7985.

viii. Rs.6500/- was withdrawn from the bank on 30.01.2006. But there were no bills drawn for the expenditure. There were no details for the deposit of Rs. 1359/- made on the same date. There were no vouchers for payments made from the withdrawn amount of Rs.5000/- on 15.03.2006. There were no vouchers for the payments made from the withdrawn amount of Rs.15,800/- on 27.03.2006. There were no details for the Bank deposit of Rs.147/- made on 27.07.2006. There were no details for the Bank deposit of Rs.834/- made on 09.08.2006.

Charge No.3:

During the petitioner's tenure as the Headmaster of the Government Tribal Residential Higher Secondary School, Pechiparai, Kanyakumari District, the petitioner caused great loss to Government funds and earned a bad name for the Department due to inadequate purchase of wooden furniture for the School.

During the class inspection done on 09.09.2006, it was found that some of the furniture was left from being entered in the register and there were no details regarding the furniture supplied after 1993. Hence many of the desks, stools and steel Chairs (with arm wrist) were in usage without



being entered in the Stock Register, steel rack, plastic chairs and karnam desks were in usage, without corresponding entries made in the Stock Register. The damaged furniture like tables, chairs, desks and benches were dumped in 3 rooms without making the respective entries. The damaged furniture was not brought for auction and the excess furniture was not brought into record.

The following are the details of the shortage of furniture as per the Stock Register:

Seri al No.	Description of Furniture	Stock as per the Register	After Verification	
1.	Dual desk	168	21	..
2.	Short desk	55	..	39
3.	Slop desk	57	31	..
4.	Steel table	1	1	..
5.	Wooden chairs	55	6	..
6.	Bench	289	59	..
7.	Stool	5	..	21
8.	Steel Cupboard	3	..	2
9.	Wooden Cupboard	8	5	..
10.	Steel chair (with flooding facility)	25	21	..
11.	Steel chair (with side hand)	..	..	5
12.	Steel racks	3	..	2
13.	Electric Fan	9	3	..



W.P.(MD)No.23981 of 2017

14.	Wooden rack	6	1	..
15.	Plastic chair	..	..	6
16.	Karnam desk	..	..	44

In addition to the above, the articles supplied for the installation of computer room and Ac under the Adi Dravidar Welfare Department 1998 were not entered in the Stock Register. No separate register was maintained for the same.”

19. According to the learned Special Government Pleader, the petitioner was permitted to peruse the documents. However, the petitioner, in his representation, dated 20.11.2006, stated that the documents referred to in Annexure -III of the documents have not been furnished to him. The learned Special Government Pleader has pointed out that when the enquiry was scheduled to be conducted on 17.03.2007, the petitioner, by his letter dated 16.03.2007, made a request to postpone the enquiry on the ground that there was public examination on 17.03.2007. Therefore, the enquiry was postponed to 24.03.2007. However, in the representation dated 16.03.2007, the petitioner has not pointed out that the documents referred to in Annexure -III, as sought for by him, in his letter dated 20.11.2006, have not been furnished to him. Therefore, now, the petitioner cannot take such a plea that he was not furnished with the said documents.



WEB COPY

20. The learned Special Government Pleader has also pointed out that the disciplinary authority, namely, the Director of Adi Dravidar and Tribal Welfare Department, by his letter dated 18.04.2007, called for a further explanation from the petitioner based on the enquiry report. The petitioner has submitted his further explanation, by a letter dated 09.10.2007. In the letter dated 09.10.2007, the petitioner has submitted that the enquiry report has not been furnished to him, however, he has not requested for any documents. Thereafter, the enquiry report was furnished to the petitioner. Based on the enquiry report, the petitioner has submitted his further explanation, vide a letter dated 10.01.2008, in which, he has not requested for any documents and he has not mentioned about the non-supply of documents as sought for by him. Since the petitioner has not mentioned about the non-supply of documents as sought for by him earlier and he has not made any request for documents in the letters dated 09.10.2007 and 10.01.2008, this Court is not inclined to accept the contention of the petitioner that he has not been furnished with the documents as referred to in Annexure III of the charge memo.



21. It is the further case of the petitioner that the opinion of the TNPSC has to be obtained by the disciplinary authority as per Regulation 18(1) of the Tamil Nadu Public Service Commission Regulations, 1954, but, it was obtained only by the appellate authority.

22. For better understanding, Regulation 18(1) of the Tamil Nadu Public Service Commission Regulations, 1954, is extracted as under:

“18. (1) It shall not be necessary for the Commission to be consulted on any disciplinary matter affecting a person serving in connection with the affairs of the State, except -

(a) where the State Government, on admitting an appeal, review or revision, propose to pass an order on such appeal, review or revision; or

(b) where the State Government propose to pass an original order imposing any of the following penalties namely:-

(i) Reduction to a lower rank in the seniority list or to a lower post or time-scale whether in the same service or in another service, State or Subordinate or to a lower stage in a time-scale;

(ii) Recovery from pay of the whole or part, of any pecuniary loss caused to the State Government or the Central Government or to a local body, by



WEB COPY



W.P.(MD)No.23981 of 2017

negligence or breach of orders;

(iii) Compulsory retirement otherwise than under Rule 33 and Rule 42 of the Tamil Nadu Pension Rules, 1978;

(iv) Removal from the civil service of the State Government; or

(v) Dismissal from the civil service of the State Government.

Provided that it shall not be necessary for the Commission to be consulted in cases where the State Government propose to impose a major penalty in the disciplinary proceedings initiated under Rule 17(c)(i) (1) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, based on the facts which led to the conviction in a Criminal Court.

(c) where the State Government propose to pass an order under rules 6 and 9 of the Tamil Nadu Pension Rules, 1978, in respect of a retired Government servant who does not agree to the punishment of reduction of pension or gratuity, or both, or withholding or withdrawing the pension.

(d) where the State Government propose to pass an original order, or an order on an appeal, under Rule 8 of the Tamil Nadu Pension Rules, 1978.”



W.P.(MD)No.23981 of 2017

The said Regulation does not mandate that the opinion of TNPSC has to be obtained in all the cases.

23. In this case, the petitioner was imposed only with a minor punishment. If the disciplinary authority has taken a decision to remove or dismiss the petitioner from service or to impose a major punishment of compulsory retirement, then, the opinion of TNPSC ought to have been obtained by the disciplinary authority. Therefore, the opinion obtained by the appellate authority cannot be found fault with.

24. In view of the above, this Court is not inclined to interfere with the order of the punishment passed by the 2nd respondent and the order of the appellate authority passed by the 1st respondent. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

25.11.2024

ogy
NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.



W.P.(MD)No.23981 of 2017

To

1. The Secretary,
Department of Adi Dravidar and
Tribal Welfare Department,
Fort St. George,
Chennai – 600 009.
2. The Director / Commissioner,
Adi Dravidar and Tribal Welfare
Department,
Chepauk,
Chennai – 600 005.
3. The District Adi Dravidar and
Tribal Welfare Officer,
The District Collectorate,
Nagercoil, Kanyakumari District.
4. The Headmaster,
Government Tribal Residential
Higher Secondary School,
Pechiparai,
Kanyakumari District.



WEB COPY



W.P.(MD)No.23981 of 2017

B.PUGALENDHI, J.

ogy

W.P.(MD)No.23981 of 2017

25.11.2024