

THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.03.2025

PRONOUNCED ON : 28.03.2025

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CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.3205 of 2025
and
W.M.P.No.3550 of 2025

K.Anbazhagan
S/o.Kuppusamy
No.36/22, Aiyyanar Koil Theru,
Mannalur,
Virudhachalan Taluk,
Cuddalore.

...

Petitioner

versus

- 1.The Registrar General,
Madras High Court.
- 2.The Principal District Judge,
Cuddalore.
- 3.The Additional Sub Judge,
Virudhachalam.
- 4.The Principal District Munsif,
Tittagudi.

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Respondents

Prayer: Writ Petition is filed under Article 226 of constitution of India,
praying for issuance of writ of certiorarified mandamus, calling for the
records pertaining to the impugned order passed by the 2nd respondent dated
1/12



26.11.2024 in order No 161 / 2024 and to quash the same consequently to direct the 2nd respondent to re-fix in the actual Basic Pay at Level 7 Index 35 as was drawn by the petitioner prior to the passing of the impugned order passed by the 2nd respondent with cumulative effect and to disburse of his retirement benefits as per basic pay of Level -7 Index 35.

For Petitioner : Mr.N.U.Pressanna

For Respondents : Mr.J.Chandran Sundar Sashi Kumar
Standing Counsel

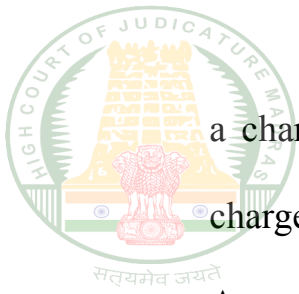
ORDER

(Order of the Court was made by **G.ARUL MURUGAN, J.**)

This writ petition is filed challenging the order of the second respondent dated 26.11.2024, by which the punishment of reduction in pay with cumulative effect, was imposed against the petitioner.

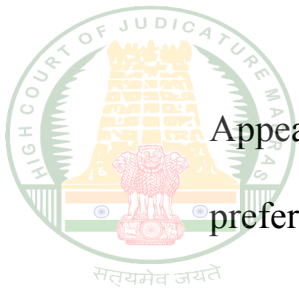
2. The petitioner originally joined the judicial department as an Office Assistant on 09.05.1983. He was thereafter promoted as a Junior Bailiff in the year 1990 and on attaining the age of superannuation on 30.11.2024, retired from service.

3. On allegations that when the petitioner was entrusted with serving summons in respect of five cases, he had not properly carried out his duties,



a charge memo dated 12.12.2023 was issued framing one comprehensive charge under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, 1955 to the effect that the summons in respect to cases in (i) E.P.No.8/2023 in ACP.1466 of 2015, (ii) E.P.No.11 of 2023 in ACP.307/2020, (iii) E.P.No.10/2023 in ACP.306 of 2020, (iv) O.S.No.61 & 62 of 2023, and (v) O.S.No.20 of 2023, which were posted in the Lok Adalat, had been returned, stating that the party, Selvaraj, in O.S.No.62 of 2023 had died, whereas when the case was called in the Lok Adalat, the said Selvaraj had appeared in person with his Aadhar Card and other identity cards. Therefore, the petitioner had not carried out his duties and had returned the summons with a false endorsement.

4. The petitioner submitted his reply on 21.12.2023, and not satisfied with the explanation, an enquiry officer was appointed. Pursuant to the enquiry, the enquiry officer submitted a report on 03.08.2024. The disciplinary authority, concurring with the findings of the enquiry officer, by order dated 26.11.2024, imposed the punishment of reduction of basic pay to the next lower stage (Level-7 Index-35 to Level-7 Index-34) from the basic pay presently drawn by the delinquent in the existing pay matrix (cell index) as per Rule 8(iv) of the Tamil Nadu Civil Services (Discipline and



Appeal) Rules, 1955. Assailing the punishment imposed, the petitioner has preferred the above writ petition.

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5. Mr.N.U.Pressanna, learned counsel for the petitioner, contended that the petitioner has put in long years of service with an unblemished record and the only charge is that he returned the summons by endorsing that the party had died which was due to a bona fide mistake. The disciplinary authority had not taken into account the valid explanation offered by the petitioner and therefore, the punishment imposed is unsustainable.

6. Learned counsel for the petitioner further contended that when the petitioner was about to retire, the punishment had been imposed, which would affect both the service and pensionary benefits, which has not been taken note of by the disciplinary authority. He further contended that when the disciplinary authority had arrived at the conclusion to impose a minor punishment, due to the retirement date, ultimately a major punishment was imposed, which is erroneous and sought for the indulgence of this Court.

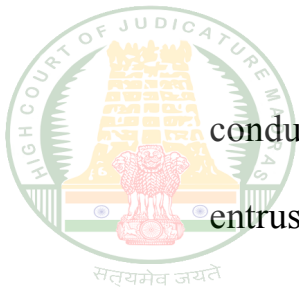


7. Contending contra, Mr.J.Chandran Sundar Sashi Kumar, learned

Standing Counsel for the respondents, submitted that it is a serious charge where the civil rights of the parties are involved and the act of the petitioner in returning summons by endorsing 'party died' will have very serious consequences, which could not be condoned. As such, the disciplinary authority initiated the appropriate enquiry, and the punishment was imposed for the proven charges. He further contended that after giving an explanation, the petitioner had also admitted his lapse, stating that due to certain urgency, he did not verify the person properly and it was only a mistake. In such circumstances, the punishment imposed is proportionate to the charges and the disciplinary authority had taken a lenient view, which needs no interference and sought for dismissal of the writ petition.

8. Heard the rival submissions and perused the materials available on record.

9. The petitioner, having been appointed as Office Assistant on 09.05.1983, had been in the judicial service for nearly 41 years and after being promoted as Junior Bailiff, retired from service on attaining the age of superannuation on 30.11.2024. For the Lok Adalat that was scheduled to be



conducted on 09.12.2023, summons in five cases, as indicated above, were entrusted to the petitioner to be served to the parties concerned.

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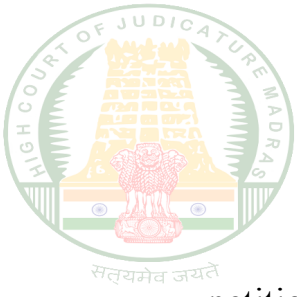
10. It is not in dispute that the petitioner, in respect of summons in O.S.No.62 of 2023, had made an endorsement that Selvaraj had died. However, when these cases were listed for hearing before the Lok Adalat, and the case in O.S.No.62 of 2023 was called, the party Selvaraj appeared in person with all the identity cards and it later came to light that the petitioner, without verifying, had wrongly endorsed the summons as "party died" and had returned it to the Court.

11. In view of serious lapses, a charge memorandum was issued to the petitioner on 12.12.2023 for the aforesaid charge. The petitioner had submitted his explanation on 21.12.2023, contending that there were two persons with the same name, one Selvaraj, S/o.Periyasamy, and another Selvaraj, S/o.Ponnusamy. He had wrongly noted the other person and returned the summons by making an endorsement, which was only a bona fide mistake.



12. The petitioner also replied that since he was in a hurry to take his child to the hospital and due to pressure, he carried out the work urgently, which led to the mistake. Not satisfied with the explanation, an enquiry officer was appointed. In the enquiry, 3 witnesses PW1 to PW3 were examined, and exhibits P1 to P10 were marked. After considering the evidence, the enquiry officer submitted her report on 03.08.2024, holding that the charge against the petitioner was proved. The disciplinary authority concurred with the enquiry officer and imposed the aforesaid punishment.

13. Serving of summons is a very vital part of the litigation process. Only on the service of the summons, the party to the litigation is informed that a lis has been instituted against him, for which he has to respond to the Court. When, on receipt of summons, the party does not choose to respond, then consequences will follow, whereby ex parte orders may be passed. In this case, since the matters were referred to the Lok Adalat, where an opportunity would be afforded to the parties to settle the disputes, the petitioner was entrusted with the summons in 5 civil cases. The petitioner, who had the responsibility to properly serve the summons on the concerned parties, had, with a callous attitude, simply returned the summons in O.S.No.62 of 2023, stating that the party, Selvaraj, had died.



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14. When the litigant was alive, the endorsement made by the petitioner in the summons that Selvaraj died and reported to the Court cannot be considered a minor lapse, especially when the civil rights of the parties are involved in litigation. The petitioner, who was responsible for carrying out official work, cannot make a false entry and later give an explanation that two persons had the same name and therefore the mistake occurred. Several persons may have the same name, but when the concerned party's father's name is filled up in the summons and entrusted to the bailiff, it is the bounden duty on him to ascertain the identity of the party in a proper manner and thereafter return the same to the Court. In this regard, the explanation offered by the petitioner that, since there were two persons with the same name, he had mistakenly noted the death of another person cannot be accepted.

15. However, the disciplinary authority, who is the competent authority to impose the appropriate punishment for the proven charge, recorded in the impugned order that, considering the 41 years of service of the petitioner and since he was going to retire in November 2024, the disciplinary authority took a lenient view of the matter and decided to impose a minor punishment of cut in increment without cumulative effect.

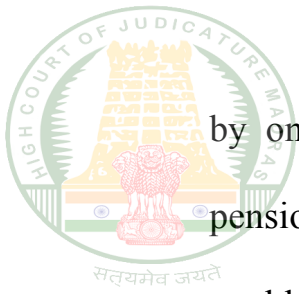


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16. It is further stated that since the delinquent was about to retire, the punishment of cut in increment could not be imposed against him and therefore, the punishment of reduction in pay as indicated above was imposed. We see no ground to interfere with the findings arrived at by the enquiry officer and accepted by the disciplinary authority, when the enquiry has been conducted in a proper and fair manner.

17. However, we find force in the statement of the learned counsel for the petitioner that the disciplinary authority, having arrived at the conclusion that imposing the punishment of cut in increment is appropriate, but considering the retirement date, had imposed a punishment of reduction in the pay scale to a lower stage without mentioning any specific period. As such, it will have consequences affecting both retirement and pensionary benefits.

18. Considering the fact that the petitioner had put in 41 years of service, and also the finding rendered by the disciplinary authority in respect of the punishment, we only deem it appropriate that the punishment imposed could be slightly modified to the effect that reduction in pay scale



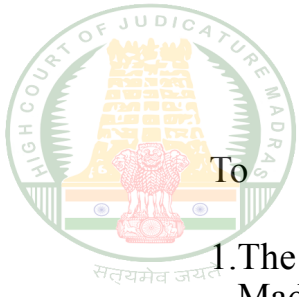
by one stage for one year, without cumulative effect, not affecting his pension. Since, in view of the retirement of the petitioner, if the punishment could not be given effect, the appropriate monetary value could be calculated and withheld from the emoluments of the petitioner, as per proviso to Rule 8(4) of the Rules.

19. With the above modification in the punishment imposed, the writ petition stands disposed of. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

(R.S.M., J.) (G.A.M., J.)
28.03.2025

Speaking order
Index : Yes
Neutral Citation : Yes

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2. The Principal District Judge,
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Virudhachalam.
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W.P.No.3205 of 2018



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W.P.No.3205 of 2025



R.SUBRAMANIAN, J.
and
G.ARUL MURUGAN, J.

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Pre-Delivery Order made in
W.P.No.3205 of 2025
and
W.M.P.No.3550 of 2025

28.03.2025