

W.P.No.16507 of 2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.16507 of 2015

and

M.P.No.1 of 2015 and W.M.P.No.5247 of 2017

P.Periyasamy

... Petitioner

Vs.

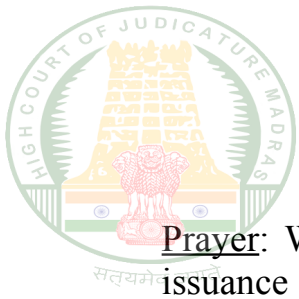
1.The Principal Secretary to Government,
Co-operation, Food and Consumer
Protection Department,
St.George Fort,
Secretariat, Chennai – 600 006.

2.The Joint Registrar of Co-operative Societies,
Salem Region,
4th Floor, District Collector Office,
Salem – 630 001.

3.The Deputy Registrar of Co-operative Societies,
Omalur Circle, Omalur – 636 455.

4.The Regional Deputy Director of Co-operative
Milk Audit,
Salem Regional Office,
Mayor Nagar,
Ramakrishna Road,
Salem – 7.

... Respondents



W.P.No.16507 of 2015

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the impugned order of the 1st respondent in Letter No.23180/CH2/2014-6 dated 15.04.2015 and quash the same.

For Petitioner : Mr.V.Stalin
For Respondents : Mr.P.Ganesan
Government Advocate

ORDER

In this Writ Petition, the petitioner has challenged the Impugned Letter/Show Cause Notice issued by the 1st respondent Principal Secretary to Government dated 15.04.2015 in his proceedings bearing Ref.ந.க.எண்.23180/சீஎச்2/2014-6.

2. By the Impugned Letter, the punishment that has been awarded by the 2nd respondent in his proceedings bearing Ref.ந.க.எண்.4642/2010 ஓந dated 10.05.2013 was sought to be enhanced.

3. The petitioner was issued with a Charge Memo dated 03.09.2010 while serving as a Senior Inspector of Co-operative Societies. The charges are of serious in nature. They read as under:-

- i. Petitioner Thiru P.Periyasamy, Senior Inspector of Co-operative Societies has acquired movable and immovable assets disproportionate to his known sources



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of income from 01.04.1998 to 31.03.2003 to the tune of Rs.1,88,330/- which is 15% excess to his income.

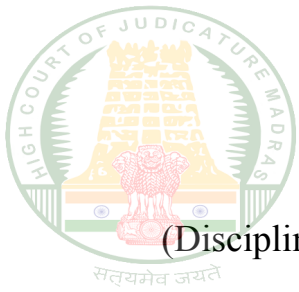
- ii. For having purchased a housing plot in the name of his wife Tmt.P.Maheswari measuring 2175 Sq.feet in Nangavalli for Rs.70,845/- vide DOC No.216/99 dated 11.02.1999 of Jalakandapuram Sub Registrar Office and built it for Rs.5,22,516/- during 1999-2000 without intimating the fact to the competent authority.
- iii. For having purchased a Maruti Van TN-30-Z-1960 in the name of his wife Tmt.P.Maheswari for Rs.2,31,000/- from SK Cars India, Salem without obtaining departmental permission.

4. The above said disciplinary proceedings resulted in a Punishment Order by the 2nd respondent Joint Registrar of Co-operative Societies in his proceedings dated 10.05.2013 bearing Ref.ந.க.எண்.4642/2010 ஒந.

5. By the aforesaid order, the 2nd respondent had imposed minor penalty for stoppage of increment for 5 years with cumulative effect.

6. It is in this background, the Impugned Letter/Show Cause Notice had been issued on 15.04.2015 to impose higher punishment.

7. Learned counsel for the petitioner would submit that the proposal contained in the Impugned Letter/Show Cause Notice of the 1st respondent dated 15.04.2015 is contrary to Rule 36(2)(a) of the Tamil Nadu Civil Services



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(Discipline and Appeal) Rules, 1955.

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8. It is submitted that the petitioner has been imposed with the punishment of stoppage of increment for 5 years with cumulative effect by the 2nd respondent in his proceedings bearing Ref.ந.க.எண்.4642/2010 ஓந dated 10.05.2013 and since the petitioner has not filed an appeal against the aforesaid order of the 2nd respondent imposing aforesaid punishment, the impugned proceeding was without jurisdiction.

9. Learned counsel for the petitioner has drawn attention to the affidavit filed in support of the present Writ Petition.

10. Learned Government Advocate for the respondents on the other hand would submit that the Writ Petition is devoid of merits and in any event premature as the petitioner has been issued with Letter/Show Cause Notice dated 15.04.2015 and therefore does not merit any interference in the hands of this Court as the Impugned Letter/Show Cause Notice has been issued directly in accordance with Rule 36(1)(iv) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955.

11. I have considered the arguments advanced by the learned counsel for



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the petitioner and the learned Government Advocate for the respondents. I have

perused the documents filed by the petitioner in support of the present Writ Petition and the Impugned Letter/Show Cause Notice dated 15.04.2015 issued by the 1st respondent. I have also perused the provisions of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955.

12. The Charge Memo that was issued to the petitioner on 03.09.2010 was under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, proposing to impose major penalty under Rule 8 of the aforesaid Rules.

13. Since only minor penalty was imposed with stoppage of increment for 5 years with cumulative effect, the respondents thought it fit to issue Impugned Letter/Show Cause Notice in exercise of power conferred under Section 36(1)(iv) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955.

The said Rule is reproduced below:-

Rule 36. Revision
(1) Notwithstanding anything contained in these rules-
(i) the State Government; or
(ii) the head of the department directly under the State Government, in the case of a Government servant serving in a department or office under the control of such head of the department, or departments; or



Rule 36. Revision

(iii) the appellate authority, other than the State Government, within six months of the date of the order proposed to be revised; or

(iv) **any other authority specified in this behalf by the State Government by a general or special order, and within such time as may be prescribed in such general or special order ; may at any time, either on their or its own motion or otherwise call for the records of any inquiry and after consultation with the Tamil Nadu Public Service Commission, where such consultation is necessary and revise any order made under these rules, may-**

- (a) confirm, modify or set aside the order; or
- (b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed; or
- (c) remit the case to the authority which made the order or to any other authority directing such authority to make such further enquiry as it may consider proper in the circumstances of the case; or
- (d) pass such other orders as they or it may deem fit;

Provided that no order imposing or enhancing any penalty shall be made by any revising authority unless the Government Servant concerned has been given a reasonable opportunity of making his representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clauses (iv), (v)*, (vi), (vii) and (viii) of rule 8 or to enhance the penalty imposed by the order sought to be revised to any of the penalties specified in those clauses, and if an inquiry under sub-rule (b) of rule 17 has not already been held in the case no such penalty shall be imposed except after an inquiry in the manner laid down in the said sub-rule (b) of rule 17 which shall be subject to the provisions of sub-rule (c) thereof, and except after consultation with the Tamil Nadu Public Service Commission, where such consultation is necessary.

Provided further that no power of revision shall be exercised by the head of the department, unless --

- (i) the authority which made the order in appeal, or
- (ii) the authority to which an appeal would lie, where no appeal has been preferred, is subordinate to him.



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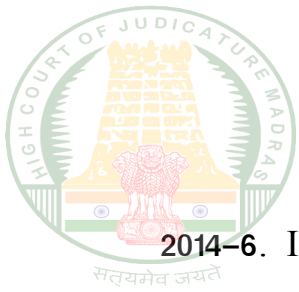
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14. The argument of the petitioner that no appeal has been preferred and therefore the Impugned Letter/Show Cause Notice dated 15.04.2015 was contrary to Rule 36(2)(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 cannot be countenanced.

15. The correct interpretation of Rule 36(2)(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 will be 'no proceedings for revision can be commenced with where no appeal has been preferred, before the expiry of the period of limitation for an appeal'.

16. It implies that no proceedings for revision can be initiated within the period of limitation for filing an appeal against the Impugned Letter/Show Cause Notice dated 15.04.2015 of the 1st respondent.

17. In this case, admittedly, the punishment order was passed on 10.05.2013. As the petitioner has not chosen to file an appeal long after the expiry of limitation for filing an appeal, the Impugned Letter/Show Cause Notice was issued by the 1st respondent Principal Secretary to Government dated 15.04.2015 in his proceedings bearing reference ந.க.எண்.23180/சிக்சு2/



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2014-6. In my view, there is no merit in the present Writ Petition.

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18. Therefore, this Writ Petition is liable to be dismissed and is accordingly dismissed.

19. Since the petitioner has obtained stay from this Court on 17.06.2015, and has continued to be in service, this Court directs the respondents to complete the proceedings as expeditiously as possible, preferably, within a period of 6 months from the date of receipt of a copy of this order considering the fact that the petitioner also would have attained the age of superannuation. No costs. Connected Miscellaneous Petitions are closed.

25.02.2025

Neutral Citation : Yes / No

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To:

1. The Principal Secretary to Government,
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Protection Department,



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C.SARAVANAN, J.

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