IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2025

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P No. 20588 of 2012

and MP.Nos. 2 & 3 of 2012

S. Ganesan ..Petitioner

Vs

1.The Secretary to Government
Finance (T & A) Department,
Secretariat, Fort St.George,
Chennai-9.

2.The Commissioner of Treasuries and Accounts,
Panagal Maligai, Saidapet,
Chennai-600015.

3.The Secretary
Tamil Nadu Public Service Commission,
No.1, Greams Road,
Chennai -6006. ..Respondents

Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, Calling for the records relating to the impugned order passed by the 2nd Respondent in Na.Ka.No. 45425/2001/Q3-2 dated 20.04.2004 and the modified order passed by the 1st Respondent in G.O.(2D).No.24 Finance (T&A-II) dated 28.02.2011 and quash the same and consequently direct the respondents to sanction all back wages and attended benefits treating the entire period of non-employment as duty period with consequential promotion on par with his Junior and to pass appropriate orders.

For Petitioner : Mr.T.Ranganathan

For Respondents : Mrs. R.L. Karthika, GA – R1 & R2
Mr. B. Vijay, Standing Counsel – R3

ORDER

The challenge in this writ petition is to the order dated 20.04.2004 passed by the second respondent, whereby the petitioner was removed from service, and also to the order dated 28.02.2011 passed by the first respondent, whereby the order of removal from service was modified to one of compulsory retirement.

2. The petitioner, while serving as Accountant, Sub Treasury, Coimbatore, and Personal Superintendent, Pay and Accounts Office, Central Chennai, was issued with a charge memo dated 16.07.2001. The charge memo issued against the petitioner reads as follows:

Charge No.1

In connection with the fake bills listed in Serial No. 4 of Annexure 3, *Sub-Treasury records, he failed to verify the specimen signature of the disbursing officer maintained in the office-with the signature affixed on the submitted bills. By failing to do so, he colluded with the concerned disbursing staff and facilitated the approval of fake bills.*

Charge No.2

He failed to comply with the instructions issued by the Director of Treasury Accounts, listed in Serial No. 2 of Annexure 3, which were intended to prevent fraudulent disbursement and misappropriation of funds.

Charge No.3

Even though the relevant portion of the register under Tamil Nadu Treasury Code Rule 70 (T.N.T.C. 70) had been pasted with a slip for attention, and despite the documents being tampered with under suspicious circumstances, he failed to properly audit and return the bills for correction.

Charge No.4

Despite being aware that certain pages in the register maintained under Tamil Nadu Treasury Code Rule 70 (T.N.T.C. 70) had been removed, replaced with other sheets, and that the Tamil and English versions of the rules and register pages had been altered and stitched in a manner contrary to procedures, the accused approved the related bills. By doing so, he violated the rules and colluded in the misappropriation of government funds.

Charge No.5

In his capacity as a responsible official of the Treasury Accounts Department, the accused failed to carry out even the most basic and *essential audit procedures while processing the bills.*

<u>Charge No.6</u>

The accused conducted himself in a negligent and indifferent manner towards government duties. Despite being expected to perform his responsibilities diligently as a senior government servant, he failed to discharge his duties properly.

<u>Charge No.7</u>

During his tenure at the Sub-Treasury, Chidambaram, from 26.04.1992 to 31.10.1992, the accused was responsible for financial loss to the Government amounting to ?1,33,506/- due to the aforementioned lapses.

3. The charge memo was accompanied by a list of documentary evidence; however, it did not contain a list of witnesses to be examined. The petitioner submitted a reply denying the charges. The said explanation was found unsatisfactory and, therefore, a departmental enquiry was initiated. The Enquiry Officer, after conducting the enquiry, submitted a report stating that all the charges against the petitioner stood proved.

4. Thereafter, the petitioner was issued a show cause notice calling upon him to explain as to why the enquiry report should not be accepted and why appropriate punishment should not be imposed. The petitioner submitted an explanation contending that the allegations were not supported by any documentary or oral evidence and that the findings recorded by the Enquiry Officer were based on surmises and conjectures.

5. The Disciplinary Authority, relying on the charge memo and the findings of the Enquiry Officer, passed an order dismissing the petitioner from service. The petitioner preferred an appeal before the first respondent, and the first respondent, while exercising appellate jurisdiction, modified the punishment by substituting the order of removal from service with compulsory retirement. Aggrieved by the same, the present writ petition has been filed.

6. The learned counsel for the petitioner submitted that there was no documentary or oral evidence before the Enquiry Officer to substantiate the allegations against the petitioner. However, the Enquiry Officer, without examining any witnesses and merely by referring to the documents, concluded that the signatures did not match and, therefore, that the bills were forged. The findings recorded by the Enquiry Officer, without examining witnesses, are contrary to Rule 17(b) of the Tamil Nadu Civil Services (Discipline and

Appeal) Rules, 1955 (hereinafter referred to as "Rule 17(b) of the Rules, 1955" for the sake of brevity and convenience).

7. The learned counsel further submitted that similar charges were framed against another delinquent and that a joint enquiry was conducted. Therefore, appropriate orders on the enquiry report holding that the charges against the petitioner and the other delinquent stood proved ought to have been passed by the same authority. In the present case, in respect of one S. Venkatesan, formerly Sub Treasury Officer, the first respondent, acting as the Disciplinary Authority, imposed a punishment of pension cut of Rs.100/- per month for a period of two years. The learned counsel for the petitioner relied upon the decision of the Division Bench of this Court in W.P. No. 24506 of 2003, dated 05.04.2005.

8. Therefore, the learned counsel for the petitioner submitted that, although a detailed explanation was submitted, the Disciplinary Authority, without discussing the explanation and without assigning any reasons for rejecting it, passed the impugned order. Hence, the impugned order is not a speaking order and is in violation of the principles of natural justice.

9. In response, the learned counsel for the respondent submitted that both documentary and oral evidence clearly establish the guilt of the petitioner. The

Enquiry Officer, after considering the materials placed on record, rightly concluded that the charges against the petitioner stood proved. The Disciplinary Authority, after considering all the materials on record in proper perspective, passed the impugned order strictly in conformity with the rules in force and imposed a major penalty. Therefore, in the absence of any perversity or illegality in the findings recorded by the Enquiry Officer, the scope of interference is very limited, and the writ petition is liable to be dismissed as devoid of merits.

10. I have duly considered the submissions of the learned counsel for the parties and the materials placed on record.

11. The sum and substance of the allegations against the petitioner and another employee of the Treasury Office is that they sanctioned bills without verifying the signatures. The petitioner, in paragraph 8 of the affidavit, has categorically stated that similar charges were levelled against other delinquents in the Treasury Office and that a joint enquiry was conducted. The Enquiry Officer submitted separate enquiry reports against the petitioner and the other delinquents, holding that the charges stood proved.

12. However, in the case of one S. Venkatesan, formerly Sub Treasury

Officer, against whom the charges were held to be proved, the enquiry report was accepted by the first respondent herein, who imposed a punishment of pension cut of Rs.100/- per month for a period of two years. In contrast, in the case of the petitioner, the second respondent, acting as the superior authority, passed an order of punishment imposing removal from service.

13. The Division of this Court, in its ***common order dated 05.04.2005 passed in W.P.Nos. 24506 to 24512 of 2003***, held that when multiple government servants of the same department are involved in disciplinary proceedings, such proceedings must be initiated and conducted by the authority competent in respect of the employee holding the highest post. In such cases, as mandated under Rule 9-A of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, the disciplinary proceedings against all delinquents must be taken together by the same competent authority, namely the Government or its designated representative.

14. When a joint enquiry is conducted against the petitioner and S. Venkatesan, the disciplinary proceedings ought to have been initiated, considered, and concluded by the competent authority in respect of the employee holding the higher post. Accordingly, the first respondent, being the superior and competent authority, alone was required to either accept or reject the enquiry report and, if accepted, pass appropriate orders. However, in the present case, the second respondent, who is an inferior officer, passed the impugned order, which is contrary to the law laid down by the Division Bench referred to above.

15. It is evident that, although similar charges were held proved against both the petitioner and S. Venkatesan, disparate punishments were imposed. In the case of S. Venkatesan, the first respondent imposed a penalty of pension cut of Rs.100/- per month for a period of two years, whereas, in the case of the petitioner, the second respondent imposed the extreme penalty of removal from service.

16. The petitioner submitted a detailed further explanation to the second show cause notice, specifically contending that the enquiry was conducted in violation of Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, as none of the prosecution witnesses were examined to prove the charges. The petitioner also explained that all prescribed procedures

were followed while clearing the bills. However, the disciplinary authority failed to consider these explanations and merely recorded that an explanation had been submitted, without assigning any reasons for accepting or rejecting the same.

17. The second respondent was duty bound to independently assess the explanation offered by the petitioner, consider the enquiry report, and record reasons before imposing any punishment. Instead, without assigning any independent or cogent reasons, the second respondent imposed the punishment of removal from service. Such an order is not a speaking order and clearly violates the principles of natural justice.

18. Furthermore, the first respondent, while modifying the punishment imposed on the petitioner from removal from service to compulsory retirement, failed to address the inconsistency in the penalties imposed on the petitioner and S. Venkatesan, despite both having been found guilty of similar charges.

19. In light of the foregoing discussion, this Court is of the view that the enquiry conducted by the Enquiry Officer was in violation of Rule 17(b) of the Rules, 1955. There is also no material evidence to substantiate the allegation that the bills were forged or that the petitioner failed to verify their genuineness.

The conclusion arrived at by the Enquiry Officer that, on perusal of the bills, the signatures were forged is arbitrary, as no witnesses were examined by the respondents to substantiate the allegation that the petitioner failed to verify the genuineness of the signatures on the bills.

20. In the absence of any evidence supporting the charges, the impugned order passed by the first respondent, modifying the punishment imposed by the second respondent, is legally unsustainable and is liable to be set aside.

21. Accordingly, the following order is passed;

i. The writ petition is allowed. The impugned order passed by the first respondent dated 28.02.2011 is hereby set aside.

ii. It is stated that the petitioner attained the age of superannuation on 31.08.2007; therefore, there is no question of reinstatement into service. However, the petitioner is entitled to 30% back salary for the period of non-employment and to consequential revision of pension and other pensionary benefits.

iii. The above exercise shall be completed by the respondents within a period of three (3) months from the date of receipt of a copy of this order.

iv. Consequently, connected miscellenous petitions are closed. There shall be no order as to costs.

09.12.2025

Index : Yes
Internet : Yes
Neutral Citation : Yes
ak

To
1.The Secretary to Government
Finance (T & A) Department,
Secretariat, Fort St.George,
Chennai-9.

2.The Commissioner of Treasuries and Accounts,
Panagal Maligai, Saidapet,
Chennai-600015.

3.The Secretary
Tamil Nadu Public Service Commission,
No.1, Greams Road,
Chennai -6006.

HEMANT CHANDANGOUDAR, J.

ak

W.P No.20588 of 2012

09.12.2025