IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2025

CORAM :
THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A.No.1372 of 2023

1. The Government of Tamil Nadu
   Rep. By its Secretary to Government
   Commercial Tax and Registration (K) Department
   Fort St. George, Secretariat, Chennai.

2. Inspector General of Registration
   Office of the Inspector General of Registration
   No.100, Santhome High Road
   Chennai – 600 028. .. Appellants

Vs.

1. N.Kulasekaran

2. The Tamil Nadu Public Service Commission
   Rep. By its Secretary
   Commercial Tax Annexe Building
   No.1, Greams Road
   Chennai – 600 002. .. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent, against the order dated 06.06.2022 made in W.P.No.617 of 2012.

For the Appellants	:	Mr.B.Vijay Additional Government Pleader
For the Respondents	:	Mr.S.Vijayakumar Senior Counsel for Mr.K.N.Pandian for R1

JUDGMENT

(Judgment of the Court was authored by R.SURESH KUMAR, J.)

This intra court appeal has been directed against the order passed by the Writ Court dated 06.06.2022 made in W.P.No.617 of 2012.

2. That the first respondent *N.Kulasekaran* was working as Sub-Registrar at the appellant Department. While so, there has been a disciplinary proceedings initiated against him by issuance of charge-memo dated 09.07.2008 under Rule 17(b) of the Tami Nadu Civil Services (Discipline and Appeal) Rules. The charge was that the employee, while working as Sub-Registrar, Thiruporur, Chengalpet, has undervalued documents in respect of stamp-duty and registration charges and caused loss of Rs.7,36,961/- to the State Exchequer. Therefore, the employee's action was in violation of Rule 20(1) of the Government Servant Conduct Rules.

3. An Enquiry Officer was appointed and the enquiry was conducted. Ultimately, the Enquiry Officer gave a report that the charges framed against the first respondent/writ petitioner was not proved. Disagreeing with the view expressed by the Enquiry Officer, the Disciplinary Authority, who is the Inspector General of

Registration, has issued notice to the first respondent/writ petitioner and after giving an opportunity to the delinquent, he had come to the conclusion that the charges have been proved against him and therefore, he had concluded that he deserves to be punished and accordingly, he awarded the punishment of dismissal from service by the order dated 22.06.2011.

4. The appeal filed by the first respondent/writ petitioner also was dismissed by the Appellate Authority on 05.12.2011. Therefore, challenging the order of punishment of dismissal from service, the delinquent/writ petitioner had approached the Writ Court by filing the said writ petition in W.P.No.617 of 2012.

5. The learned Writ Court, having gone through the facts of the case, has given reasons that the Sub-Registrar is exercising quasi-judicial functions and while exercising quasi-judicial functions, if there is any mistake committed or error committed, that would not *ipso facto* constitute any violation warranting disciplinary proceedings. In support of this proposition, the learned Judge has relied upon some decisions and ultimately concluded that the disciplinary proceedings, ended in the punishment of removal from service, inflicted against the writ petitioner/delinquent cannot be

sustained in the eye of law and therefore, the learned Judge has allowed the writ petition through the impugned order.

6.1. Assailing the said order, *Mr.B.Vijay*, learned Additional Government Pleader appearing for the appellant Department would submit that even though the Enquiry Officer's report has stated that the charges framed against the first respondent/writ petitioner have not been proved, as per the Rule, the Disciplinary Authority is empowered to take a different view by disagreeing with the view of the Enquiry Officer and after following the procedure contemplated under the Rule, such a view had been taken and ultimately, since the charges framed against the delinquent has been proved against him, the Disciplinary Authority decided to inflict the punishment of dismissal from service. Therefore, there is no procedural irregularities in awarding such a punishment against the delinquent, he contended.

6.2. Insofar as the stand taken by the Writ Court by treating the service of the Sub-Registrar of the Registration Department, as a quasi-judicial one, therefore, if any error or mistake committed by such Sub-Registrar during the exercise of quasi-judicial functions, it cannot be treated as a violation of the Conduct Rules, warranting disciplinary proceedings. the learned Additional Government Pleader would contend that, such a proposition is no longer a good law in view of the subsequent developments made in ***Union of India and Ors. vs. Duli Chand***[1].

6.3. Therefore, the learned Additional Government Pleader would convince this Court that the issue has not been considered in proper perspective by the learned Judge and the approach and reasonings given by the Writ Court, being an erroneous one, the judgment impugned requires interference at the hands of the Division Bench he contended.

7.1. On the other hand, *Mr.S.Vijayakumar*, learned Senior Counsel assisted by *Mr.K.N.Pandian*, learned counsel for the first respondent would submit that first of all, the very framing of the charges itself has no substance. The reason being that the alleged loss of more than fourty lakhs, originally quantified pursuant to the audit report, is only a vexatious one, as it became evident that subsequently, it has been referred under Section 47 A of the Registration Act, 1908, where, after verifying the documents and the land in question, which was involved in the document

1 *(2006) 5 SCC 680*

concerned, the Collector has fixed the value, based on which only a sum of Rs.2000/- and odd was less paid as stamp-duty. Even that amount has been collected. Therefore, the charge-sheet against the delinquent/writ petitioner, as if that he caused loss of Rs.7,36,961/-, has absolutely no basis.

7.2. When that being so, on what basis the Disciplinary Authority had taken a different view than the one concluded by the Enquiry Officer after conducting proper enquiry and in this regard, unilaterally, since the Disciplinary Authority has taken a decision as if that the charges framed against him has been proved and therefore, he wanted to inflict the major punishment of dismissal from service, which is not only disproportionate, but also against the factual matrix of this case. Hence, the learned Writ Court, having considered all these aspects, has come to the right conclusion in setting aside the punishment by allowing the writ petition through the impugned order and the impugned order does not warrant any interference he contended.

8. We have considered the submissions made by learned counsel appearing for both parties and have perused the materials placed before this Court.

9. If we look at the sum and substance of the charges, that it has been framed as if that the delinquent has undervalued the documents in respect of stamp-duties and registration charges, which caused loss of Rs.7,36,961/- to the State Exchequer. However, now, it has been proved that there has been no loss to the extend of Rs.7,36,961/- and if at all there is a loss, it is only a sum of Rs.2,000/- and odd. Therefore, as has been stated by the learned Senior Counsel appearing for the respondent/writ petitioner, the very basis of the charges itself is very doubtful.

10. That apart, assuming that the land in question covered under the document has been undervalued, by virtue of the undervaluation, whether the writ petitioner has gained anything monetarily? The answer from the appellants was no, as nothing has been culled out from any source that by virtue of the alleged undervaluation of the documents in question, the delinquent has gained pecuniarily. When that being so, it cannot be stated intentionally that the delinquent has undervalued the documents for making any gain for himself or for any third parties.

11. That apart, insofar as the theory of quasi-judicial

functioning, as adopted by the learned Judge in the impugned order, is concerned, as there has been conflicting judgments, including the one cited by the learned Additional Government Pleader in the case of ***Duli Chand*** *(*cited *supra)*, we do not propose to go into or dwell into that issue in this appeal. The reason being that insofar as the punishment that has been awarded against the delinquent is concerned, assuming that as per the circular issued by the Department of Registration, if any doubt comes in noticing the same that it is not an agricultural land and it is a land meant for any dwelling or housing purposes by way of layout, certainly, the Sub-Registrar ought to have valued the property, as if that it is a land meant for housing as per the guideline value. If he had raised any doubt from it, he would have referred to the District Collector under Section 47A of the Registration Act, 1908, but, instead of referring the matter or properly valuing the documents, since he has valued the documents as if it is agricultural land, by thus, even a loss of small amount of Rs.2000/- since has been caused to the State Exchequer, that could be construed as a minor dereliction on the part of the delinquent.

12. For such dereliction, what kind of punishment could be imposed is the question. The law is well settled in this regard, that, unless it shocks the conscience of the Court, the Court normally would be slow in interfering with the proportionality of the punishment. Here in the case in hand, because of the small dereliction on the part of the delinquent/writ petitioner, as he is not personally gained for such transaction of the alleged undervaluation of the property and the loss is only Rs.2000 and odd, it cannot be stated that it is violation, for which, the major punishment of dismissal from service is warranted. Therefore, in that count, it certainly shocks the conscience of the court. Therefore, we do feel that instead of the major punishment of dismissal from service, some alternate punishment could be imposed against the delinquent to do substantial justice.

13. To that extent, we are inclined to interfere with the view expressed by the learned Judge by completely allowing the writ petition by adopting the theory of exercising quasi-judicial functions of the Sub-Registrar. Resultantly, the following orders are passed in this appeal:

(i) That the judgment impugned is modified that the respondent/writ petitioner/delinquent is liable to be punished by making reduction of the time scale of pay to one stage lower time scale during the relevant point of time, that is the occurrence of the dereliction instead of the dismissal from service, as has been inflicted by the appellant Department, which was set aside by the Writ Court through the impugned order.

(ii) On such alternate punishment inflicted upon the respondent delinquent, he shall be entitled to get the service benefits, subject to any other disciplinary proceedings, which are said to be pending against him. In this context, since three disciplinary proceedings said to have been pending against the delinquent, as stated by the learned Additional Government Pleader appearing for the appellant, in that regard, it is open for the appellant Department to proceed or to take a decision otherwise according to their conscience and in accordance with law.

14. With these observations and directions, the impugned order is modified and to that extent, the writ appeal is ordered accordingly. However, there shall be no order as to costs. Consequently, C.M.P.No.13421 of 2023 is closed.

(R.S.K., J.) (A.D.M.C., J)
01.04.2025

Neutral Citation:Yes/No

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To:

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R. SURESH KUMAR, J.
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