



WEB COPY

WP No. 8857 of 2021



**DATED: 23-04-2025**

**CORAM**

**THE HONOURABLE MRS JUSTICE N. MALA**

**WP No.8857 of 2021  
and WMP.No.9394 of 2021**

**J.Palanivel**

**Petitioner(s)**

**Vs**

1.The Transport Commissioner,  
Chepauk, Chennai – 5.

2.The Additional Chief Secretary to  
Government,  
Home(Transport IIA) Department,  
Fort St.George, Chennai – 9.

**Respondent(s)**

**PRAYER**

Writ Petition is filed under Article 226 of the Constitution of India, please to issue a Writ of Certiorari, to call for the records of the 1<sup>st</sup> respondent in connection with the impugned order passed by him in Proc.R.No.36318/VA.1/2014 dt. 05.04.2019 and confirmed by the 2<sup>nd</sup> respondent in GO (D).No.1032, Home (Transport IIA) Dept dt. 09.09.2020 and quash the same.



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For Petitioner(s): Mr.K.Venkataramani, Sr.Adv.  
for Mr.M. Muthappan

For Respondent(s): Mr. L.S.M.Hasan Fazil,  
Additional Government Pleader

### **ORDER**

This Writ Petition is filed to call for the records of the 1<sup>st</sup> respondent in connection with the impugned order passed by him in Proc.R.No.36318/VA.1/2014 dt. 05.04.2019 and confirmed by the 2<sup>nd</sup> respondent in GO (D).No.1032, Home (Transport IIA) Dept dt. 09.09.2020 and quash the same.

### **Facts in brief:**

2.The petitioner was appointed as Junior Assistant on 29.08.2001. After successful completion of the probation based on the petitioner's seniority he was promoted as Assistant on 31.03.2010. Though the petitioner was due for promotion as Superintendent in the year 2014 itself, due to pendency of the



disciplinary proceedings, his promotion was deferred by six panels (i.e) from 2014 to 2019. The petitioner while serving as an Assistant in the State Transport Authority, Chennai, applied for Casual Leave due to ill-health, and thereafter continued his leave on the advise of his Doctor. The petitioner went on leave from 20.01.2014 to 16.02.2014, and thereafter applied for Medical Leave from 17.04.2014 to 23.12.2014, along with the Medical Certificate. Later the petitioner reported for duty after treatment. Whiles, though the petitioner had enough leave to his credit and he had applied for leave in time, even before he could complete his leave, he was issued with a charge memo on 08.08.2014, under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, for unauthorised absence for 250 days. The petitioner submitted his explanation to the charge memo on 11.02.2015. Thereafter, an Enquiry Officer was appointed, enquiry was conducted and the Enquiry Officer submitted his report on 15.09.2015, holding that the charges against the petitioner were partly proved. The respondents sent a communication to the petitioner calling for his explanation to the Enquiry Report. The petitioner submitted his explanation on 02.11.2015, and thereafter no action was taken by



the respondent, however, on the continuous persuasion of the petitioner, the first respondent passed the impugned order on 05.04.2019, imposing the punishment of stoppage of increment for a period of two years without cumulative effect. Meanwhile as there was a long delay of 5 years in passing the punishment order, the petitioner lost his chance of promotion for six panel years. Aggrieved by the impugned order, the petitioner preferred a statutory appeal to the second respondent on 06.06.2019. The second respondent even without considering the petitioner's appeal grounds dismissed the appeal on 09.09.2020. Aggrieved by the impugned orders passed by the disciplinary authority as well as the appellate authority, the petitioner has filed the above writ petition for the aforesaid relief.

3.The respondents filed a detailed counter denying all the allegations and contentions raised in the affidavit filed by the petitioner. The respondents after placing the entire facts of the case submitted that the petitioner without getting prior permission and without submitting proper leave application, went on leave for more than 250 days, from 07.03.2014 to 23.12.2014, which was violative of Rule 20(1)(2) of the Tamil Nadu Government Servants Conduct Rules, 1973.

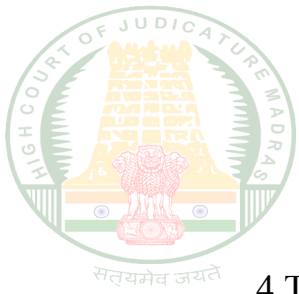


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According to the respondents, as per G.O.(Ms).No.8, Personnel and Administrative Reforms (FR-III-2) Department, dated 19.01.2015, the petitioner

ought to have submitted his leave application to the office, within 7 days from the date of entering on such leave. As the petitioner failed to submit his leave application before going on leave, the charge memo was issued to the petitioner.

The respondents submitted that after conducting proper enquiry and after following the due procedures the 1<sup>st</sup> respondent passed the impugned order imposing the punishment of stoppage of increment for a period of two years, without cumulative effect. The respondents further submitted that as the petitioner himself admitted that he had submitted the leave application belatedly, it was clear that the petitioner was not devoted to duty which amounted to a misconduct under Rule 20(1)(2) of the Tamil Nadu Government Servants Conduct Rules, 1973. The respondents submitted that as the charge against the petitioner was partly proved, he was imposed with the punishment of stoppage of increment for a period of two years without cumulative effect. The respondents therefore submitted that there were no merits in the writ petition and the same deserved to be dismissed.



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4.The learned counsel for the petitioner submitted that the punishment order dated 05.04.2019, and the confirmation order dated 09.09.2020 deserved to be set aside, on the short ground of delay and laches. The learned counsel further submitted that the second respondent without considering the grounds raised in the appeal filed by the petitioner and without application of mind dismissed the appeal by merely relying on G.O.(Ms).No.8, Personnel and Administrative Reforms (FR-III-2) Department, dated 19.01.2015. The learned counsel further submitted that the 2<sup>nd</sup> respondent failed to appreciate that G.O.Ms.No.8, dated 19.01.2015, did not apply to the petitioner, since the period of petitioner's leave was much before the said G.O. The learned counsel therefore submitted that the impugned orders deserved to be quashed.

5.The learned Additional Government Pleader reiterated the submissions made in the counter affidavit.

6.I have heard both the learned counsels and I have perused the materials



placed on record.

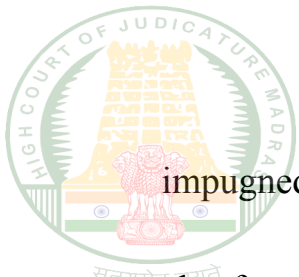
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7. The undisputed facts are that the petitioner was issued with the charge memo on 08.08.2014. The petitioner submitted his written explanation on 11.02.2015, and thereafter the Enquiry Officer was appointed. The Enquiry Officer submitted his report on 15.09.2015, holding that the charges against the petitioner were partly proved. Pursuant to the enquiry report, the petitioner was directed to submit his explanation to the Enquiry Report. The petitioner submitted his explanation/representation on 13.10.2015, and thereafter, after a lapse of nearly 3 ½ years, the impugned order dated 05.04.2019, imposing the punishment of stoppage of increment for a period of two years without cumulative effect was passed. Aggrieved by the same, the petitioner filed an appeal to the second respondent immediately and the second respondent after a lapse of 1 year and three months passed the impugned order dated 09.09.2020, confirming the punishment imposed by the first respondent. It is seen that though the petitioner has taken a specific plea in the writ petition that the disciplinary proceedings were vitiated by delay and laches, the respondents did



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not assign any reason for the inordinate delay of 5 years in concluding the disciplinary proceedings in the counter. In the absence of any plausible explanation for the exorbitant delay of 5 years in concluding the disciplinary proceedings, I am of the view that the unexplained delay of 5 years in concluding the disciplinary proceedings is fatal to the respondents case. Therefore, in my view, on the short ground of delay and laches, the impugned order deserves to be set aside. Apart from delay and laches as rightly contended by the learned counsel for the petitioner, the impugned order of the 2<sup>nd</sup> respondent is tainted by total non-application of mind. The second respondent while confirming the order of the first respondent relied on G.O.(Ms).No.8, dated 19.01.2015, which in my view, is not applicable to petitioner, since the period of absence for which disciplinary proceedings commenced was long prior to the issuance of the said G.O. The 2<sup>nd</sup> respondent even without applying his mind to the applicability of the said G.O. To the petitioner, blindly relied on the same. Further both the respondents did not consider the explanation offered by the petitioner to the findings of the Enquiry Officer and mechanically passed the impugned order. Hence, in my view the



impugned order cannot be sustained both on the ground of delay and laches and also for non-application of mind.

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8. In view of the above discussion and under the facts and circumstances of the case, I am of the view that the impugned orders cannot be sustained and hence the same are set aside.

9. Accordingly, the Writ Petition is allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

**23-04-2025**

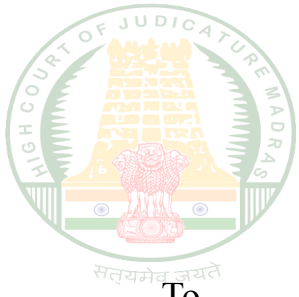
ah/dsn

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To  
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- 1.The Transport Commissioner,  
Chepauk, Chennai – 600 005.
- 2.The Additional Chief Secretary to  
Government,  
Home(Transport IIA) Department,  
Fort St.George, Chennai –600 009.



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**N.MALA,J.**

ah

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