



WP No. 39185 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 16.04.2025	Pronounced on 02.06.2025
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THE HONOURABLE MR JUSTICE RMT. TEEKAA RAMAN

WP No. 39185 of 2015

and

MP.Nos.1 & 2 of 2015

P.Indira, Inspector,
Hindu Religious and Charitable Endowment Department,
Paramathi Velur Taluk,
Namakkal District

Petitioner(s)

Vs

1. The Assistant Commissioner/
Executive Officer,
Arulmighu Sugavaneshwar Temple,
Salem Taluk, Salem District

2.The Commissioner
Hindu Religious and Charitable Endowment Department,
Uthamar Gandhi Salai, Nungambakkam, Chennai 34

3.The Secretary to Government
Tourism,
Culture and Religious Endowment Department,
Secretariat, Chennai 9

Respondent(s)



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PRAYER

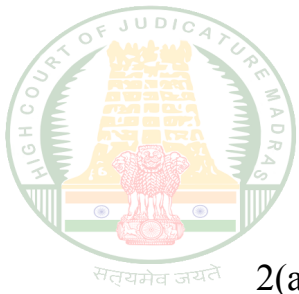
Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order of punishment issued by the 2nd respondent in Na. Ka. No.6830/14/B2 dated 9.8.2014 and the consequential order of the 3rd respondent issued in G.O.(D) No.153, Tourism, Culture and Religious Endowment Department, dated 19.10.2015 and quash the same and consequently direct the 2nd respondent to treat the entire period of suspension from 7.2.2014 to 25.8.2014 as duty.

For Petitioner(s): Mr.T.Ranganathan

For Respondent(s): Mr.K.Karthikeyan,
Government Advocate

ORDER

This petition has been filed to call for the records relating to the impugned order of punishment issued by the second respondent in Na. Ka. No.6830/14/B2 dated 9.8.2014 and the consequential order of the third respondent issued in G.O.(D) No.153, Tourism, Culture and Religious Endowment Department, dated 19.10.2015 and quash the same and consequently, direct the second respondent to treat the entire period of suspension from 7.2.2014 to 25.8.2014 as duty.

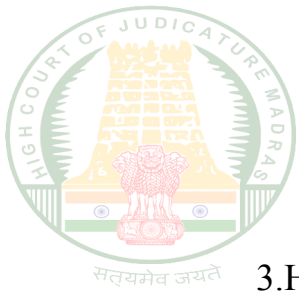


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2(a).The petitioner is working as Inspector in the Hindu Religious and Charitable Endowment Department at Namakkal District. When she was working on deputation, the first respondent has issued a charge memo under rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeals Rules, 1955 in Na.Ka.No.208/2017/A1 dated 07.02.2014. He also placed the petitioner under suspension on the same date.

2(b).The Enquiry Officer submitted his report stating that charges 2, 3, 4 and 5 are held not proved. The charge 1 was held proved. The second respondent has stated in his letter communicating the Enquiry Officer report that charges 1 and 2 are held proved, without assigning any specific reason for disagreeing the finding of the enquiry officer and also for taking deviation.

2(c).The petitioner has also submitted further explanation on the finding of the Enquiry Officer, the second respondent has issued Na.Ka.No.6380/2014/B2 dated 09.08.2014 imposing a penalty of stoppage of increment for one year with cumulative effect. The petitioner has filed a statutory appeal under Rule 19 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules to the third respondent. However, the third respondent rejected the appeal on the ground of delay.



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3. Heard the learned counsel for the parties on either sides and perused the available records.

4. Learned counsel for the petitioner would contend that though the Enquiry Officer submitted his report stating that charges 2, 3, 4 and 5 are held not proved and the charge 1 is held proved, the disciplinary authority has taken a different view and issued second showcause notice. The show cause notice was not signed by the Commissioner/Disciplinary Authority but signed by the Superintendent and witnesses were not examined in the presence of the petitioner and necessary document were not served and the charges are not falls under the category of 17(b). There is violation of circular No.14353/PER/-N/93-1 P & AR Department dated 11.03.1993, wherein nature of the charges, to be framed under section 17(b) was listed out and also stated that it is a non-speaking order and enquiry was not conducted in a fair manner and before imposing the punishment TNPSC was not consulted.

5. The learned Government Advocate would submit that the circular in No.14353/PER/-N/93-1 P & AR Department dated 11.03.1993 is only a guideline and not mandatory. The learned Government Advocate would further state that since disciplinary authority have taken a different view with that of the enquiry officer, necessary showcause notice was issued and as per the orders of



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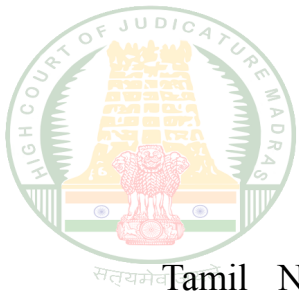
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the disciplinary authority, the Superintendent has communicated the said fact and enquiry was conducted in a fair manner.

6.The competency of the officer to place the petitioner under suspension was questioned. Admittedly, the petitioner is in foreign service and hence, she is under the control of the Joint Commissioner and therefore, competent person to pass an order of suspension is Assistant Commissioner and the same is valid. Since the petitioner is in foreign service, competent officer is only Assistant Commissioner and not Joint Commissioner, and hence, the plea of petitioner alleging that incompetency of officer to place the petitioner under suspension stands negatived.

7(a).On facts, I find that Arulmigu Sugavaneshwar Temple, Salem is running an orphanage home in the said temple. On 05.02.2014, a warden/cook had beaten the inmates of the Home. The said matter is also reported in various newspapers. However, the petitioner neither brought it to the notice and knowledge of the Executive Officer of the said temple or to the higher authorities.

7(b).According to the department the petitioner had committed dereliction of legitimate duty and hence, the charges were framed under Rule 17(b) of



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Tamil Nadu Civil Services (Discipline and Appeal) Rules by the 1st Respondent/Foreign Employer. Since the petitioner was in foreign employment with the temple the first respondent is competent to pass interim suspension. Accordingly, this plea was also negatived.

7(c).Based upon the enquiry report the disciplinary authority/second respondent has passed an order of stoppage of one increment with cumulative effect on 09.08.2014. Against which, Appeal was preferred by the petitioner and the same was also dismissed on the ground of delay of 164 days. Time for Appeal is 60 days and hence 104 days is considered to be a delay.

8(a).In view of the third proviso of Sub-Rule (2) of Rule 12 of Tamil Nadu Civil Services (Discipline and Appeal) Rules, the charge memo was issued by the first respondent and hence, the same cannot be found fault. The substance of charges is that the Petitioner facing charge of dereliction of duty, for not informing the incident of beating up a student in the orphanage, run by the temple and same is came into light only after the same was published in the newspaper.

8(b).The petitioner has attended the enquiry on 25.04.2014 before the enquiry officer and appears to have filed a written explanation and the same was



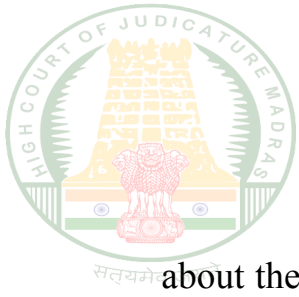
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recorded by the Enquiry Officer and the report was also forwarded to the second respondent. All the witnesses were examined in the presence of the petitioner and the petitioner also counter signed the statement obtained from the witnesses in her presence.

9. In the letter dated 18.06.2014 issued by the second Respondent, there is a clear intimation that the competent authority is taking a different view from the finding of the Enquiry Officer, with regard to the charges proved and hence he has issued a showcause notice and calling upon the petitioner for further explanation and by order, the communication has been sent to the petitioner and hence, I find that the procedure prescribed for the disciplinary authority, when the disciplinary authority took a different view as that of the Enquiry Officer, notice of deviation and different opinion of the disciplinary authority has to be intimated are duly complied with. Hence, I find that the enquiry has been conducted in a fair manner and there is no unfairness as contended by the petitioner.

10. Coming to the merits of the case, I find that the warden in the school run for the orphans by the temple, has beaten up a boy. The petitioner herein is the Inspector, who has assigned with the role of duty to intimate the higher officials, she has failed to do so, only after the newspapers published the news



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about the incident, it came to the knowledge of the first respondent and hence, I find that the dereliction of duty, in not informing the event is made out. With regard to the punishment, stoppage of increment without cumulative effect will meet ends of justice.

11. Accordingly, in the interest of justice, the order of punishment alone is modified from stoppage of increment for one year with cumulative effect to stoppage of increment for one year without cumulative effect. Since charges are held to be proved, treating the period from 07.02.2014 to 25.08.2014 as earned leave is also kept intact.

12. With the above observation and direction, this Writ Petition is partly allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

02.06.2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

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RMT.TEEKAA RAMAN J.

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**Pre-delivery order made in
WP No. 39185 of 2015 and
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Dated: 02.06.2025