



W.P.No.9973 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 22.10.2025

DELIVERED ON: 19.11.2025

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

W.P.No.9973 of 2024

Brittoline Sahaya Terine
W/o S.M.Bruno Corera,
New No.80, Old No. 231,
Peters Road, Royapettah,
Chennai - 600 014

...Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Environment, Climate Change & Forest Department,
Fort St. George,
Chennai - 600 009.

2.The Chairman,
Tamil Nadu Pollution Control Board
No. 76, Mount Salai, Guindy
Chennai - 600 032.

3. The Member Secretary
Tamil Nadu Pollution Control Board
No. 76, Mount Salai, Guindy
Chennai - 600 032

... Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to call for the records relating to the proceedings of the 2nd



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respondent bearing Proc. No. TNPCB / Per / CS / 02579 / 2022-2 dated 04.04.2022 and that of communication bearing Proc. No. TNPCB / Per / CS / 02579 / 2022-1 dated 22.08.2022 and confirmed by the 1st respondent vide proceedings bearing Letter No. 17710 / EC.2 / 2022-10 dated 31.01.2024 and quash the same.

For Petitioner : Ms. Rita Chandrasekar
for M/s. Aiyar & Dolia

For Respondents : Mr. C.Selvaraj, A.G.P for R1
Mr. J. Ravindran, A.A.G
Asst. by Ms. Madhuri Donti Reddy
Standing Counsel for R2 & R3

ORDER

Challenging the orders passed by the 2nd respondent and confirmed by the 1st respondent, imposing the punishment of stoppage of increment for a period of 3 months without cumulative effect, the present writ petition has been filed.

2.The brief facts culled out from the records are as follows:

2.1 The petitioner initially joined the 2nd Respondent Board in 1991 and was thereafter promoted as Deputy Manager in the year 2019. During her tenure as a Deputy Manager, the petitioner came to be issued with a charge memo dated 09.02.2022 in TNPCB/Per/CS/2579/2022-2 for i) her failure to issue a show-cause notice to Tmt. S. Pitchammal, Steno-Typist for



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reverting to the lower post of Steno-Typist Grade III from Grade I despite not possessing the required technical qualifications and re-fixing the pay as per the guidelines issued in Government Letter No. 20281/Fin (BPE)/2018 dated 19.04.2018 and for having violated the instructions in Government letter dated 04.11.2020; ii) not calling for explanation from Thiru.S.Ilangovan and Thiru.V.Aeronse as per the orders of the Chairman dated 21.12.2020 and for having failed to take disciplinary action against the officials concerned, who were responsible for the promotion of the said Tmt.S.Pitchammal ; and iii) not following the orders issued in G.O.Ms.No. 286, Finance (Pension) Department, dated 28.08.2018 while ordering for recovery of Tmt.S.Pitchammal, Steno-Typist.

2.2. The petitioner submitted her explanation on 03.03.2022, denying all the charges and thereafter, on 04.04.2022, the 2nd respondent passed an order imposing punishment of stoppage of next increment without cumulative effect for a period of 6 months. Challenging the said order, the petitioner preferred an appeal to the Appellate Authority as per the Tamil Nadu Pollution Control Board (Discipline and Appeal) Regulations, 2010, wherein, vide proceedings dated 22.08.2022, the 2nd respondent modified the punishment to one of stoppage of next increment without cumulative



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effect for a period of 3 months. As against the said orders modifying the punishment originally imposed, the petitioner filed a review petition dated 19.10.2023 before the 1st respondent which came to be rejected vide proceedings dated 31.01.2024, thereby confirming the order passed by the 2nd respondent, modifying the punishment to one of stoppage of next increment without cumulative effect for a period of 3 months. Challenging the action of the respondents in imposing the punishment of stoppage of next increment for a period of 3 months without cumulative effect, the present writ petition has been filed.

3. Learned Counsel for the petitioner, at the outset, would submit that the entire punishment imposed would rest on the charge of "failure to initiate action against the due officers responsible for the lapses", since the petitioner, in terms of the communication issued by the 1st respondent dated 04.11.2020 initiated action to revert the said Tmt.S.Pitchammal to the post of Steno-Typist Grade III and as such, the petitioner had followed due procedure to effect recovery of pay from Tmt.S.Pitchammal. Learned counsel for the petitioner would place reliance on the information obtained under the RTI Act through Government Letter No.641/EC-2(i)/2024-3 dated 25.03.2024 and submitted that the officials aforementioned viz.,



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S.Ilangovan and V.Aeronse had already retired on 28.02.2020 and 28.02.2018 respectively, which is much before the issuance of the Government letter dated 04.11.2020. He would further submit that as per the Tamil Nadu Pension Rules, 1978, no departmental proceedings shall be instituted against an erstwhile government employee with respect to any event that took place 4 years prior to such institution and as such, more than 4 years had lapsed in the present case, since Tmt.S.Pitchammal was promoted from Grade II to Grade I on 29.08.2013, thereby deeming it untenable to initiate action against the officials aforementioned who had retired on 28.02.2020 and 28.02.2018 respectively.

4. She would further submit that the petitioner was maliciously made a scapegoat, since the officials who had handled the files pertaining to Tmt.S.Pitchammal at the relevant time namely Tmt.N.Vasanth, Tmt.G.V.Geetha, Tmt.L.Sasikala and Tmt.R.S.Sumathi, resulting in her promotion, were deliberately overlooked and no disciplinary action was initiated against them. Learned counsel would also highlight the factum of deliberate suppression by one Thiru.S.Raghupathi, Joint Chief Environmental Engineer and Head of the Personnel and Administration Department, who was well aware of the allocation of work and the handling



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of files by the aforesaid individuals who were in possession of the same for a period of 2 years and would allege that he had wilfully suppressed the said fact to the Chairperson. However, no action had been taken against any of the officials stated *supra*.

5. The learned counsel for the petitioner would also bring to the notice of this Court, the order passed in the writ petition filed by Tmt. S.Pitchammal in W.P.No.1463 of 2021 challenging the order of reversion and re-fixation of pay, and would submit that this Court, vide order dated 17.07.2023, had categorically held that Tmt.Pitchammal had fulfilled the qualification required according to the Tamil Nadu Pollution Control Board Revised Service Regulations, 2010 and ultimately, allowed the writ petition. Thereby, she would submit that when the respondents, having implemented the order dated 17.07.2023 passed in W.P.1463 of 2021, cannot now impose punishment on the petitioner for inaction against irregular promotion, when the same was subsequently upheld by this Court. She would further submit that the order of punishment was passed without conducting any enquiry and the 2nd respondent, having acted as disciplinary authority while imposing the penalty had also presided over the Board to which the petitioner submitted her appeal and thereby, the 2nd respondent had acted as a judge of his own cause. Though



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the order had been passed by two different persons, they held the same post and on these grounds *inter alia*, she would seek allowing the present writ petition.

6. Per contra, Mr.J.Ravindran, learned Additional Advocate General appearing for Ms.Madhuri Donti Reddy on behalf of the respondents 2 & 3 would submit that the petitioner failed to take disciplinary action against the erring officials in terms of the Govt.Lr.No.14102/EC2/2018-11 dated 04.11.2020 and the instructions in the aforesaid letter were only partly followed by the petitioner. Learned Additional Advocate General would further submit that the petitioner is not justified in stating that she had simply acted on the communication dated 04.11.2020 when she had failed to follow the guidelines issued in the Government Letter No.20281/Fin(BPE)/2018 dated 19.04.2018, in terms of which, she ought to have issued show cause notice to the employees concerned and this deliberate inaction had proved to be fatal to the Board in W.P.1463 of 2021 filed by Tmt.Pitchammal. He would further submit that the note files received through the RTI Act and relied on by the petitioner are not relevant to the present case since the same are internal communications and do not reflect a final decision taken by the Government.



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That apart, learned Additional Advocate General would also reiterate that under Rule 9(2)(b)(ii) of the Tamil Nadu Pension Rules, 1978, there was no bar for taking action against Thiru.Ilangovan and Thiru.V.Aeronse and it was the failure to do the same, that had resulted in the issuance of a charge memo to the petitioner.

7. Learned Additional Advocate General appearing for the respondents further submitted that having failed to issue a show cause notice to Tmt.S.Pitchammal informing her of the decision to rectify the wrongful promotion granted to her, which had resulted in overpayment and having failed to take steps to recover such excess payment in terms of the orders issued in G.O.Ms.No.286, Finance (Pension) Department dated 28.08.2018, the petitioner cannot now take the stand that she had simply followed the instructions issued to her in Government letter dated 04.11.2020. Learned Additional Advocate General further submitted that the petitioner cannot challenge the impugned order of punishment issued to her on the ground of *nemo judex in causa sua* since the petitioner, despite knowing that the disciplinary authority was a part of the appellate authority i.e., the Board, the petitioner preferred an appeal with the Board. Moreover, the petitioner



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had not raised any objection to the Chairperson's participation in the appeal and did not challenge the composition of the Board, thereby, the petitioner cannot raise the said issue at this stage. Learned Additional Advocate General appearing for the respondents would submit that the punishment imposed is minor and has already been modified by the appellate authority, thereby reflecting the unbiased fairness of the respondents and would seek dismissal of the writ petition.

8. Heard both sides at length and perused the records.

9. Admittedly, the petitioner had followed the instructions issued to her in the letter dated 04.11.2020 and had taken steps to revert the said Tmt.Pitchammal and re-fix her salary. As far as the issue of non-issuance of show cause notice to Tmt.Pitchammal for grant of wrongful promotion is concerned, it can be observed that the said promotion has been duly upheld by this Court in W.P.1463 of 2021 vide order dated 17.07.2023, wherein the order of reversion was quashed. On perusal of the order dated 17.07.2023, this Court finds that the Coordinate Bench had extensively perused the Board Resolutions and the regulations prescribed under the Tamil Nadu Pollution Control Board Revised Service Regulations, 2010 while holding that the said Tmt. Pitchammal had fulfilled the required qualifications for the post of Steno



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Typist Grade - I and as such, the primary claim of the respondents that the petitioner's inaction in not issuing show cause notice to Tmt.Pitchammal proved fatal to their case is untenable. That apart, when the very issue of wrongful promotion has been decided by this Court as stated *supra*, there is no rhyme or reason on the part of the respondents to impose a penalty on the petitioner for the same.

10. A specific plea has been raised by the petitioner that no enquiry was conducted before passing the first impugned order dated 04.04.2022. Though in both the counter affidavit and the additional counter affidavit filed on behalf of the respondents 2 and 3, it has been stated by the respondents that sufficient opportunity was given to the petitioner, no specific contentions have been elucidated to controvert the stand taken by the petitioner that no enquiry was conducted before passing of the first impugned order, which goes against the fundamental principles of natural justice.

11. Now, to consider the core issue of punishment imposed and notwithstanding the very many grounds raised on both sides, I find that at the outset, there is a procedural lapse on the part of the respondents in not conducting an enquiry before imposing punishment. It is apropos to rely on the decision of the Hon'ble Supreme Court in ***O.K. Bhardwaj v. Union of India***,



[(2001) 9 SCC 180] wherein it has been held as follows:

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"3. While we agree with the first proposition of the High Court having regard to the rule position which expressly says that "withholding increments of pay with or without cumulative effect" is a minor penalty, we find it not possible to agree with the second proposition. Even in the case of a minor penalty an opportunity has to be given to the delinquent employee to have his say or to file his explanation with respect to the charges against him. Moreover, if the charges are factual and if they are denied by the delinquent employee, an enquiry should also be called for. This is the minimum requirement of the principle of natural justice and the said requirement cannot be dispensed with."

12. In the present case, admittedly, the petitioner gave her explanation on 03.03.2022 wherein she denied all the charges levelled against her, thereby categorically refuting the same and in view of the decision of the Hon'ble Apex Court extracted *supra*, the respondents ought to have conducted an enquiry. However, in the present case, the respondents, after receiving the explanation submitted by the petitioner dated 03.03.2022, have mechanically passed the first impugned order dated 04.04.2022, imposing punishment of postponing the next increment for a period of 6 months without cumulative effect and the same was subsequently modified vide the second impugned order dated 22.08.2022 as punishment of stoppage of next increment without cumulative effect for a period of 3 months and confirmed by the third impugned order



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dated 31.01.2024. As such, no enquiry was conducted in the matter, thereby, depriving the petitioner of her valuable right to establish her defence. Hence, all the three impugned orders perforce need to be set aside and they are accordingly set aside.

13. In fine, this writ petition stands allowed. No costs.

19.11.2025

Index : Yes/No
Speaking order /Non Speaking Order
Neutral Citation : Yes/No
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To

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A.D.JAGADISH CHANDIRA,J.

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**Pre-delivery Order in
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