



W.A.No.992 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 16.04.2025

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.A.No.992 of 2023
and
C.M.P.No.9928 of 2023**

C.Muthu

... Appellant

-Vs-

1. The Member Secretary,
Sports Development Authority of Tamil Nadu,
Nehru Park,
Chennai

2. The District Sports and Youth Welfare Officer,
Karur.

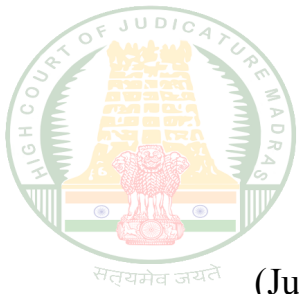
... Respondents

PRAYER : Appeal under Clause XV of Letters Patent against the order dated 01.03.2023 made in W.P.No.6266 of 2023.

For Appellant : Mr.G.Bala and Daisy

For Respondents : Ms.N.S.Tanvi
Standing Counsel

J U D G M E N T



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

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This intra Court appeal has been directed against the order dated 01.03.2023 made in W.P.No.6266 of 2023.

2. The appellant was the writ petitioner who was an employee of the respondent authority, namely, Sports Development Authority of Tamil Nadu. Since he had been allegedly unauthorised absence between 30.09.2017 and 02.12.2021, a disciplinary proceeding had been initiated against him by issuance of charge memo dated 17.10.2022 followed by a show cause notice dated 06.02.2023, challenging both these proceedings, he filed the said writ petition in W.P.No.6266 of 2023 where it was canvassed the point by the learned counsel appearing for the appellant / petitioner before the writ Court that, for the said period of absence, in fact he had given an application to sanction the leave which was not considered, therefore it was not actually the unauthorised absence and it is the bone of contention of the petitioner before the writ Court. The writ Court having considered the same noted the point that there has been no enquiry in the eye of law as observed in paragraph No.3 of the order impugned dated 01.03.2023 and that insofar as the claim of the petitioner that he has given an application is concerned, the factual aspect which requires



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to be dealt with is only during the time of inquiry and this Court exercising its power under Article 226 of the Constitution of India, will not entertain such ground for a purpose of quashing the charge memo. By citing the said reason, the said writ petition was dismissed through the impugned order.

3. We have heard Mr.G.Bala and Daisy, learned counsel appearing for the appellant and Ms.N.S.Tanvi, learned Standing Counsel appearing for the respondents.

4. The learned counsel appearing for the appellant would submit that despite observations having been made as if that there has been no enquiry conducted in the eye of law till 01.03.2023 and the plea raised by the petitioner before the writ Court would be taken care of by the Enquiry Officer during enquiry, without conducting any enquiry, straight away, the first respondent / Member Secretary of the Sports Development Authority had proceeded to complete the disciplinary proceedings which has in fact been culminated in an order of termination dated 03.10.2024.

5. The learned Standing Counsel appearing for the respondents would



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submit that, as early as on 12.01.2023 itself after completing the enquiry, the

Enquiry Officer has submitted a report, based on which, the show cause notice

in fact had been given on 06.02.2023 which has not been responded and he also

stated that, against the order passed by the writ Court dated 01.03.2023, the writ

appeal has been filed which is pending before this Court, i.e., instant appeal,

hence the respondents being the Disciplinary Authority having no other option,

having accepted the Enquiry Officer report dated 12.01.2023 has passed the

order of termination dated 03.10.2024.

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

7. It is to be noted that when the charge memo dated 17.10.2022 was under challenge in the writ petition and the same was disposed by an order of the writ Court dated 01.03.2023, it was an observation made by the learned Judge that the plea of the writ petitioner can be taken care of by the Enquiry Officer during the enquiry. Therefore, till 01.03.2023, there has been no enquiry conducted in the eye of law. This position cannot be controverted by the respondents as they have not filed any appeal against the order dated 01.03.2023



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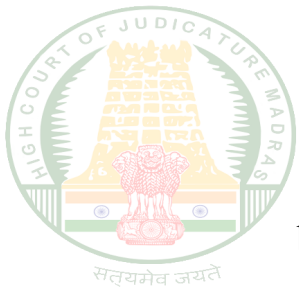
of the writ Court.

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8. When that being so, if at all any report has been filed by the Enquiry Officer on 12.01.2023 which is well prior to the order of the writ Court dated 01.03.2023, it cannot be taken as a report of the Enquiry Officer, after having conducted the enquiry in the eye of law by giving a due opportunity to the delinquent, i.e., appellant herein. Therefore, based on such Enquiry Officer's report dated 12.01.2023, no further action could have been taken including the one dated 03.10.2024 under which the services of the appellant / petitioner have been terminated. Therefore, we have no hesitation to hold that such proceedings now issued by the respondent employer which culminated in the order dated 03.10.2024 is a farce and it cannot be stated to be a proceeding in the eye of law as the enquiry itself has not been conducted in the manner known to law, therefore as observed by the learned Judge in paragraph No.3 of the order which is impugned herein, the respondent employer has to conduct the enquiry properly and thereafter, it is open to them to take action in accordance with law.

9. In that view of the matter, we are inclined to dispose of this writ appeal with the following orders:

(i) that the respondents are directed to conduct enquiry



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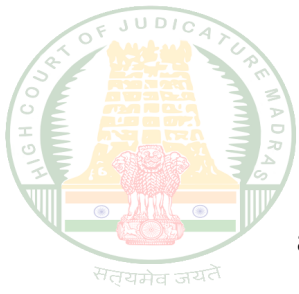
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based on the charge memo dated 17.10.2022 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955. During the enquiry, proper opportunity has to be given to the appellant / petitioner. When notice is issued by the Enquiry Officer, on receipt of the same, the appellant shall co-operate with the Enquiry Officer to complete the enquiry for which we fix a period of three months from the date of receipt of a copy of this judgment.

(ii) Once the notice is attempted to be served on the appellant, he should not evade in receiving the notice and the notice must be received by him as if that the notice will be sent by the Enquiry Officer pursuant to the order passed by this Court in this judgment.

(iii) After completing the enquiry by giving proper opportunity to the appellant / petitioner, the Enquiry Officer can furnish a report to the Disciplinary Authority, thereafter the Disciplinary Authority can give a second show cause notice for taking any defence statement by the appellant / petitioner within a period of fifteen days thereafter. On receipt of second show cause notice, the appellant shall give his reply within two weeks thereafter. Based on such proceedings, it is open to the Disciplinary Authority to take action in accordance with law depending upon the merits of the Enquiry Officer's report.

(iv) All these proceedings shall be completed within the outer limit time of five months from the date of receipt of



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a copy of this judgment.

(v) Till such time, the order of termination dated 03.10.2024 shall be kept in abeyance. The appellant / petitioner since had been allegedly unauthorised absence from 30.09.2017 to 02.12.2021, the said status is continued even today and to be continued till the completion of the aforestated disciplinary proceedings. Thereafter depending upon the outcome of the disciplinary proceedings, the period between 30.09.2017 and 02.12.2021, whether to be considered as a duty period or otherwise can also be decided by the respondent / Disciplinary Authority.

10. With these observations and directions, this Writ Appeal is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) (A.D.M.C., J.)
16.04.2025

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To



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