IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 15.07.2025	Pronounced on : 17.10.2025

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.5201 of 2004

Mr.M.Shahul Hameed ... Petitioner

Vs.

1. The Managing Director,
The Tamil Nadu Industrial Investment Corporation Ltd.,
473, Anna Salai, Nandanam, Chennai – 600 035.

2. The Chairman, Board of Directors,
The Tamil Nadu Industrial Investment Corporation Ltd.,
473, Anna Salai, Nandanam, Chennai – 600 035. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for and examining the entire records relating to and connected with the proceedings of the first respondent herein resulting in his order in Procds.No.Admn/DW/2000-2001 dated 21.03.2001 as confirmed by the order of the second respondent herein dated 18.11.2002 in the proceedings in TIIC/Admn/DW/2002-03, to quash the same and directing the respondents to reinstate the petitioner into service with all benefits and privileges which he would have been entitled to but for the impugned orders.

For Petitioner : Mr.Arun Anbumani
for Mr.P.Rakumar Pandian

For Respondents : Mr.Jayesh B Dolia
for Mr.V.Kalyanaraman, Srivijai.S,
for M/s.Aiyar and Dolia

ORDER

This writ petition has been filed challenging the order passed by the Respondent No.1 in Proceedings bearing No.Admn/DW/2000-01, dated 21.03.2001, as modified by the order passed by the Respondent No.2 in Proceedings bearing No.TIIC/Admn/DW/2002-03, dated 18.11.2002, in the year 2004.

2. The above writ petition was originally disposed of by a Co-ordinate Bench of this court on 12.05.2011, on the ground that there was discrimination in the matter of imposing the punishment against the petitioner when compared to the punishments that were imposed on certain other employees of the respondent Corporation and accordingly, the matter was remanded back to the respondents for fresh consideration and moulding the punishment duly setting aside both the impugned orders. It was aggrieved by the said order dated 12.05.2011, the respondents herein filed W.A.No.1633 of 2012 and the learned Division Bench of this court confirmed the order passed

by the learned Single Judge and dismissed the appeal on 05.12.2017. It was aggrieved by the said order dated 05.12.2017, the respondents herein carried the matter in appeal to the Hon'ble Apex Court in Civil Appeal No.2554 of 2022 and the Hon'ble Apex Court by order dated 29.03.2022 allowed the said Civil Appeal, holding that the order dated 12.05.2011 passed by a Co-ordinate Bench of this court and the order dated 05.12.2017 passed by a learned Division Bench of this court cannot be sustained, as the conclusions arrived at under the said orders were without comparing the nature of charges that are levelled against the petitioner herein and the charges that are levelled against the other employees and accordingly, set aside both the orders and remanded the matter back to the Single Judge, duly restoring the writ petition on to the file of this court for consideration the matter afresh. Accordingly, this writ petition is listed once again for disposal on merits.

3. The brief facts that are relevant for disposal of this writ petition are stated hereunder:-

3.1. While the petitioner was working as 'Officer (Finance)' at Chennai (North) Branch of the Tamil Nadu Industrial Investment Corporation Limited (hereinafter referred to as 'the respondent Corporation'), he was placed under suspension and was subjected to disciplinary proceedings by issuing a charge memo bearing No.Admn/AM/KG/99-2000/2, dated 06.07.1999, containing in all 24 charges. A perusal of the said charge memo would disclose that the petitioner herein and one Mr.D.Karunanidhi, Branch Manager, Mr.D.Baskaran, Officer (Finance) in the Project Department, and Tmt.P.Maragatham, Officer (Legal), working at Chennai (North) Branch office, were all subjected to disciplinary proceedings in connection with the alleged misconduct committed by them in connection with the loan transaction pertaining to M/s.Sri Shakthi Studio, a Partnership Firm.

3.2. It also shows that, One Mr.D.Baskaran, Officer (Finance) appraised the loan application of M/s.Sri Shakthi Studio and put up the note for sanction before the Executive Committee on 12.01.1996 without obtaining Field Intelligence Report. It further discloses that one Mr.D.Karunanidhi, Branch Manager had himself carried out the site inspection on 23.01.1996 instead of deputing the petitioner herein, as is the normal practice. However, even before the submission of the Field Intelligence Report, the term loan of Rs.60,00,000/- was sanctioned by the Executive Committee on 12.01.1996 for the purchase of equipment to setup a U-Matic Studio with post-production facilities like dubbing, editing etc., at a premises in Anna Nagar. The said loan was sanctioned subject to the condition that the borrower should obtain

SIA acknowledgement before drawal of the loan. However, the said Mr.D.Karunanidhi, Branch Manager, submitted a note to the Executive Director on 30.04.1996 for relaxation of the condition relating to SIA acknowledgement and for not insisting No Objection Certificate from TNHB. The said relaxations were approved by the Executive Director on 03.05.1996, based on the recommendation of the AGM (Project).

3.3. It further discloses that the borrower should offer collateral security to an extent of 100% of the loan amount, and certain irregularities were alleged in the matter of offering security, especially in connection with the tampering of the title documents by altering the extent of the land from 0.39 acres and 0.18 acres to that of 10.39 acres and 10.18 acres respectively. Certain other irregularities were also pointed out in connection with the preparation of the valuation report of the said landed property offered as collateral security, and the said irregularities were attributed to the said Mr.D.Karunanidhi, Branch Manager, the petitioner herein, and Tmt.B.Maragatham, as they failed to properly verify the valuation report and in accepting the same as collateral security. It was also alleged that the Branch Manager ordered for accepting the collateral security of lesser value, vide the landed property, without insisting for additional collateral security or fixed deposit for the shortfall.

3.4. There is also an allegation in connection with the change of supplier of the machinery and the approval of the same by the Executive Director of the respondent Corporation with certain conditions. It is alleged that the cheques/ pay orders submitted by the borrower were not encashed by the supplier, and even before the release of the loan amount towards the price of the machinery, the machinery was alleged to have been supplied to the borrower and that the cheques/ pay orders that were issued towards margin money were all cancelled subsequently. It is also further alleged that the supplier, without encashing the cheques towards the margin money, issued receipts of having received the amounts covered by the said cheques/ pay orders. There are also allegations with regard to genuineness of the invoices submitted by the supplier and the failure of the Branch Manager and the petitioner in verifying the said invoices properly was also mentioned.

3.5. It is also further alleged that the petitioner herein, without properly verifying as to whether the supplier of the machinery and the borrower have submitted all the relevant documents, submitted a note for disbursement of the loan amount to the supplier without ascertaining whether the margin money cheques were realized. It is also further alleged that the petitioner has submitted a report on 11.07.1996, as though he has inspected the machinery and was satisfied with the same, though the margin money itself was not realized by the supplier. Thus, it is alleged that the said report submitted by the petitioner is a false report. It is also further alleged that though the fraud committed by the borrower and the persons who offered landed property as collateral security had unearthed, the Branch Manager and the petitioner failed to initiate appropriate criminal proceedings against the borrower and the persons who offered the said land as collateral security, and thereby the collusion on the part of the Branch Manager and the petitioner on one hand, the borrower and the persons who offered collateral security on the other hand is stated to be apparent. It also alleged that the letters addressed to the persons who offered collateral security were all returned by the postal authorities on the ground that "no such person in the address".

4.1. Basing upon the above narrated allegations, in all 24 charges have been framed against the petitioner. The petitioner submitted an explanation dated 27.12.1999, denying all the charges and explaining the same. It was thereafter, the General Manager (SD) of the respondent Corporation was appointed as an Enquiry Officer to conduct an enquiry into the charges framed against the petitioner. It is also brought to the notice of this court that the abovesaid Mr.D.Karunanidhi, Branch Manager was also subjected to disciplinary proceedings, but the said disciplinary proceedings were conducted against the petitioner and the said Branch Manager independently, though the allegations that were levelled against the petitioner and the said Branch Manager are common to the maximum extent.

4.2. From the perusal of the record, it is evident that the Enquiry Officer commenced the proceedings and allowed the management representative to submit various documents, which were marked as management exhibits and, the petitioner was also permitted to submit documents and thereafter, the management representative was required to submit his written arguments and the petitioner was also asked to submit his written arguments. It is basing upon the said written arguments submitted on either side and the documents produced by the management representative, the Enquiry Officer submitted his report holding that all the charges levelled against the petitioner as 'proved' except Charge No.7. The said report of the

Enquiry Officer was communicated to the petitioner by the Respondent No.1 through proceedings dated 06.09.2000, affording him an opportunity to make a further representation. Accordingly, the petitioner submitted his further representation dated 13.09.2000, and it was thereafter, the Respondent No.1 passed an order dated 21.03.2001, imposing the punishment of 'removal from service' under Rule 6.15(b)(ix) of the Service Rules of the respondent Corporation.

4.3. It was aggrieved by the said order dated 21.03.2001, the petitioner preferred an appeal before the Respondent No.2 on 09.05.2001 and the Respondent No.2/ Appellate Authority, having considered the appeal filed by the petitioner, proposed to enhance the punishment by invoking Rule 6.25(i) of the Service Rules of the respondent Corporation and accordingly issued show-cause notice through proceedings bearing No.TIIC/Admn/DW/ 2001-02, dated 15.02.2005, requiring the petitioner to explain as to why the punishment of 'removal from service' should not be enhanced to 'dismissal from service'. Accordingly, the petitioner submitted his explanation dated 21.03.2001 and he was also afforded an opportunity of personal hearing and the petitioner also submitted his further representation dated 14.05.2002 requesting to set aside the punishment of 'removal from service' and to desist from enhancing the punishment to that of 'dismissal from service'. It was thereafter, the Respondent No.2 passed an order dated 18.11.2002, enhancing the punishment to 'dismissal from service'. It is aggrieved by the said orders passed by the respondents dated 21.03.2001 and 18.11.2002, the petitioner filed the present writ petition.

5. Heard Mr.Arun Anbumani for Mr.P.Rakumar Pandian, learned counsel for the petitioner and Mr.Jayesh B Dolia for Mr.V.Kalyanaraman, and Srivijai.S, learned counsel for the respondents.

6. The learned counsel for the petitioner mainly contended that the enquiry that was conducted against the petitioner and the consequential impugned orders passed by the respondents are all liable to be quashed for the simple reason that the mandatory procedure that is required to be followed in terms of Rule 6.17(i) of the Service Rules of the Tamil Nadu Industrial Investment Corporation Limited have not been followed by the respondents while conducting enquiry. According to him, in the absence of following the said Rule, especially for want of adducing the oral evidence, as required under the said Rule for establishing the charges that are levelled against the petitioner, the entire proceedings stand vitiated. He also further contended that

the charges that are levelled against the petitioner are all vague and trivial in nature and there is no specific allegation that was levelled exclusively against the petitioner in the entire charge sheet. He also further contended that the punishment that was imposed on the petitioner is highly disproportionate when compared to the punishments that were imposed on the employees of the respondent Corporation who were also subjected to disciplinary proceedings on identical charges and he also drawn the attention of this court to various charges that are levelled against the other employees for comparing the same with the charges that are framed against the petitioner herein and also drawn the attention of this court to the punishments that were imposed on the other employees of the respondent Corporation.

7. In support of his contentions, the learned counsel for the petitioner also placed reliance on various decisions of the Hon'ble Apex Court as well as this court, namely ***"State of Uttaranchal and others -vs- Kharak Singh"*** reported in **2008 (8) SCC 236,** ***"Roop Singh Negi -vs- Punjab National Bank and others"*** reported in **2009 (2) SCC 570,** ***"Board of Directors -vs- N.Somasundaram"*** reported in **2009 (1) LLN 278,** ***"Naresh Chandra Bharadwaj -vs- Bank of India and others"*** reported in **2019 (15) SCC 786,** ***"Anand Regional Coop, Oil Seedgrowers' Union Ltd -vs- Shaileshkumar***

Harshadbhai Shah" reported in **2006 (6) SCC 548** and ***"Lucknow Kshetriya Gramin Bank and another -vs- Rajendra Singh"*** reported in **2013 (12) SCC 372.**

8. On the other hand, Mr.Jayesh B Dolia, learned counsel appearing for the respondents has drawn the attention of this court to the charge sheet dated 06.07.1999 issued to the petitioner and contended that there is active collusion on the part of the petitioner with the then Branch Manager, namely Mr.D.Karunanidhi, and in connivance with the Branch Manager, the petitioner has misconducted himself, thereby favoured the borrower, namely M/s.Sri Sakthi Studio, resulting in financial loss to the respondent Corporation. He also further contended that the respondents have strictly followed the procedure that is required to be followed in terms of the Service Rules, and it is not mandatory that in every case, oral evidence is required to be adduced if the charges levelled against the delinquent employee can be established by documentary evidence. He also further contended that the question of affording any opportunity of cross-examination to the delinquent employee does not arise unless oral evidence is adduced by producing witnesses on behalf of the respondent Corporation. He also further contended that the scope of interference by this court in the matter of disciplinary

proceedings is very limited and this court cannot sit in appeal over the orders passed by the Disciplinary Authority. He also further contended that strict rules of evidence have no application to the disciplinary proceedings and the question of disproportionality of punishment does not arise in the instant case, as the charges that are levelled against the petitioner are grave in nature. He also further submitted that the question of comparing the punishments that were imposed on different employees under different disciplinary proceedings does not arise, as each case stands on its own facts and circumstances, and he also further contended that even if there is a mistake in imposing a lesser punishment on an employee, the same cannot be taken advantage of by the petitioner to say that he should also be imposed lesser punishment by committing the very same mistake once again.

9. In support of his contentions, the learned counsel for the respondents placed reliance on various decisions of the Hon'ble Apex Court in the cases of ***"P.C.Kakkar -vs- Chairman and Managing Director, United Commercial Bank and others"*** reported in **(2003) 4 SCC 364, *"Regional Manager, U.P. SRTC, ETAWAH -vs- Hoti Lal and another"*** reported in **(2003) 3 SCC 605, *"Balbir Chand -vs- Food Corporation of India Ltd.,"*** reported in **(1997) 3 SCC 371** and ***"Deputy General Manager (Appellate***

Authority) and others -vs- Ajai Kumar Srivatsava" reported in **(2021) 2 SCC 612.**

10. This court has carefully considered the submissions made on either side and also perused the entire material on record.

11. As already noted above, the main stress of the learned counsel for the petitioner is on the ground of violation of Rule 6.17 of the Service Rules, as there was no oral evidence adduced as required under the said Rule. The said Rule 6.17(i) of the Service Rules reads as under:-

> *"In every case where it is proposed to impose on a member of a service under the Corporation any of the penalties specified in items (i) to (x) in Rule 6.15, the grounds on which it is proposed to take action shall be reduced to the form of a definite charge or charges, which shall be communicated to the person charged, together with a statement of the allegations on which each charge is based and of any other circumstances which it is proposed to take into consideration in passing orders on the case. He/She shall be required within a reasonable time, to put in a written statement of his/her defence and to state whether he/she desires an oral enquiry. The enquiry shall be held if such an enquiry is desired by the person charged or is directed by the authority concerned. At that enquiry oral evidence shall be heard as to such of the allegations as are not admitted and the person*

charged shall be entitled to cross-examine the witnesses called, as he/she may wish, provided that the Officer conducting the enquiry, may, for special and sufficient reasons to be recorded in writing refuse to call a witness. The proceedings shall contain a sufficient record of the evidence and on statement of the findings and the grounds thereof.

Provided that in case of a person appointed or promoted to a post by transfer from any other class or service the Corporation may at any time before the appointment of the said person as a full member to the said post revert him/her to such class or service either for want of vacancy or in the event of his/her becoming surplus to requirements without observing the formalities prescribed in this sub-rule."

12. From the perusal of the above Rule 6.17, it is apparent that in an enquiry contemplated under the Service Rules for imposing penalties specified in Items (i) to (x) of Rule 6.15 of the Service Rules, oral evidence shall be heard on the allegations that are not admitted by the person charged, and he shall be entitled to cross-examine the witnesses called. In the present case, as already noted above, admittedly no oral evidence was adduced in support of the charges/ allegations that are levelled against the petitioner during the course of enquiry.

13. The learned Division Bench of this court in the above referred

case of ***"Board of Directors -vs- N.Somasundaram"*** reported in **2009 (1) LLN 278,** has been pleased to consider the very same Rule 6.17 of Corporation Service Rules and held as under:-

> *"14. On the face of the above statutory requirement, it is mandatory that an oral enquiry to be conducted and oral evidence shall be heard as to such of the allegations as are not admitted and the person charged shall be entitled to cross-examine the witnesses called. Contrary to the said provision, no oral enquiry has been conducted in this case. All the documents produced by the Management Representative have been taken on file as if the contents of documents have been proved as required under the provision. This aspect of the matter has not been disputed by the appellants in their counter affidavit filed before the Writ Court, rather, it is an admitted fact that enquiry has been concluded on the basis of the charge memo and the documents filed by the Management Representative without there being any explanation to the same from the respondent. The above process of conducting enquiry is definitely against the statutory requirement. This violation can only be regarded as violation of substantive statutory provision. Even assuming that the said provision is procedural in nature, the violation of the same, in our view, caused prejudice to the respondent.*
>
> *16. If an opportunity had been given as required under the statutory provision of the Service Rules above referred to, the respondent would have proved his case atleast to his satisfaction against the charges levelled against him. For that purpose, an enquiry as contemplated under the above rule had to be conducted, which is not followed in this present case. Hence, prejudice is manifest in this case."*

13.1. In this connection, it is also relevant to refer to the decisions of the Hon'ble Apex Court in the case of ***"State of Uttaranchal and others -vs- Kharak Singh"*** reported in **2008 (8) SCC 236,** wherein the Hon'ble Apex Court held as under:-

> *"15. ...*
>
> *(iii) In an enquiry, the employer/ department should take steps first to lead evidence against the workman/ delinquent charged and give an opportunity to him to cross-examine the witnesses of the employer. Only thereafter, the workman/ delinquent be asked whether he wants to lead any evidence and asked to give any explanation about the evidence led against him."*

So also, in the case of ***"Roop Singh Negi -vs- Punjab National Bank and others"*** reported in **2009 (2) SCC 570,** the Hon'ble Apex Court held as under:-

> *"**14.** Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry officer on the FIR which could not have been treated as evidence."*

In the light of the above binding decision of the learned Division Bench of this court, while examining the scope of Rule 6.17 of the Service Rules and the decisions of the Hon'ble Apex Court, this court is of the considered view that in the admitted fact situation of not adducing any oral evidence in the case on hand, the entire enquiry that was conducted against the petitioner shall stand vitiated for want of compliance with Rule 6.17 of the Service Rules.

14. Be that as it may, this court would like to consider other aspects of the matter as well, especially in connection with the manner in which the enquiry was conducted and the impugned orders came to be passed. No doubt, the charges that are levelled against the petitioner, as seen from the charges as such, are all grave in nature. The said charges reads as under:-

> *"**Charge 1:** that he failed to note that the Panel Valuer had not furnished the market value of the property offered as collateral and accepted the valuation of the panel valuer without assessing the market value of the property and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 read with 6.14 (xiii) of the Service Rules of the Corporation.*
>
> ***Charge 2:** that he accepted the boosted valuation of the panel valuer assessed in terms of sq.ft rate instead of average rate which is applicable to agricultural land and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) with 6.14 (xiii) of the Service Rules of the Corporation.*

<u>Charge 3:</u> *that he as a prudent official of the Corporation failed to verify with the Registrar's office concerned and ascertain why the guideline value of the land was fixed at square feet rate for the agricultural land against average rate and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

<u>Charge 4:</u> *that he failed to call for valuation of the collateral property from Chengalpet (East) Branch of the Corporation within whose jurisdiction the properties are situated violating Circular No.02-87/92-93, dt.05.11.92 because the real extent of the land would be exposed if the land was valued by the Chenglepet (East) Branch Office and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a) 6.1. (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

<u>Charge 5:</u> *that he failed to obtain the properties owned by the Partners of the borrower concerned as collateral in order to meet the shortfall in the collateral security and acted against the interest of the Corporation and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

<u>Charge 6:</u> *that due to his acceptance of worthless properties as collateral security, he had put the Corporation at great risk leaving it with inadequate collateral security and thereby acted against the interest of the Corporation and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

<u>Charge 7:</u> *that he recommended and submitted the note to the then Executive Director and got his* *approval for supplier From M/s.Broadcast Equipments Pvt Ltd. to M/s.Telescreen Communications Pvt. Ltd. though he had power to approve the same and acted upon the same without obtaining approval from the then Chairman and Managing Director and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

Charge 8: *that he had handed over the Borrower's margin money cheques to the borrower himself instead of sending the same to the supplier directly by RPAD violating Circular 6.1 and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

Charge 9: *that he failed to verify before disbursing the loan, whether the borrower's margin money cheques drawn in favour of machinery supplier were realised or not and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

Charge 10: *that he accepted the bogus receipt M/s.Telescreen Communications Pvt. Ltd. for the borrower's margin money, since the borrower's margin money cheques were not at all presented for encashment and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

Charge 11: *that he failed to note that the invoices for Rs.4,97,489.60 and for Rs.28,08,181/- by machinery supplier M/s.Telescreen Communications Pvt. Ltd., are having one and the same invoice number and date namely No.TSC/HYD/010/96, dated 05.07.96 and the invoice for Rs.41,97,489.60 is only a xerox copy of the* *invoice for Rs.28,08,181/- except for the change in the figures and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the corporation.*

Charge 12: *that he as a prudent official had failed to apply his mind as to how Thiru Ravichandran, Managing Director of the machinery supplier company could sign in the invoice both at Chennai and Hyderabad on the very same day and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

Charge 13: *that he accepted the bogus M/s.Telescreen Communications Pvt. Ltd.. and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with. 6.14 (xiii) of the Service Rules of the Corporation.*

Charge 14: *that he failed to note that in the invoice No.TSC/002/96-97, dt.05.07.96. it was stated as second sale and no sales tax was charged, whereas as per bill of M/s.Pinnacle System Inc. USA, the supplier M/s.Telescreen Communication Ltd. is the sole distributor of M/s.Pinnacle System Inc. USA in India and they have to necessarily charge sales tax, it being first sale in India and thereby accepted a fake invoice of M/s.Telescreen Communication Pvt. Ltd., and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

Charge 15: *that he overlooked the fact that the Bill of Entry for the Alladin machinery was not in the name of the supplier M/s.Telescreen Communications Pvt. Ltd. and thereby violated Rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service*

Rules of the Corporation.

Charge 16: *that he failed to note that as per the Bill of Entry for Video Recorder, it was imported from USA and not from M/s.Sony Corporation of Honkong Ltd., the authorized distributor of the supplier M/s.Broadcast and Pro Ranges Video and thereby violated Rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

Charge 17: *that he failed to obtain copy of the original manufacturers documents from the local dealer that the machinery equipments purchased were brand new and that the price was paid and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

Charge 18: *that he recommended for disbursement of the loan amount of Rs.10 lakhs to the machinery supplier M/s.Telescreen Communications without margin money since all the margin money cheques were not encashed and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

Charge 19: *that he furnished a false inspection report dt.11.07.96 that all the machinery were erected in the factory premises at Plot No.3066, 13th Main Road, Anna Nagar. Chennai 40 while the supplier himself had not encashed the margin money cheques from the borrower and where the invoices are fake and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

Charge 20: *that he furnished a false inspection report as if the machinery are available at Nungambakkam or Anna Nagar but failed to find out the exact whereabouts of the machinery and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

Charge 21: *that he failed to note that the notices sent to the owners of the collateral returned as unserved with an endorsement of postal department that there was no such person in the address and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

Charge 22: *that he failed to take any action against the borrower and the property owner who had cheated Corporation by furnishing the bogus sale deed evenafter if it was officially brought to his knowledge and thereby violated rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

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Charge 23: *that he in furtherance of the conspiracy to defraud the Corporation hatched with Thiru D.Karunanidhi. Manager (under suspension), Thiru D.Baskaran, Officer (Finance), Head Office, the borrower, the supplier and panel valuer and to unduly and illegally enrich himself and the others had indulged in the above lapses/ irregularities and thereby violated Rules 6.14 (viii) and (xii) and 6.1 (a), 6.1 (b) read with 6.14 (xiii) of the Service Rules of the Corporation.*

Charge 24: *that his conduct as above is* *unbecoming of an employee of a financial institution and thereby violated Rules 6.1(c) read with 6.14 (xiii) of the Service Rules of the Corporation."*

15. As against the abovesaid charges that are levelled against the petitioner, the petitioner had submitted his explanation denying all the charges by submitting his explanation dated 27.12.1999. Thereupon, an Enquiry Officer was appointed. The Enquiry Officer, as already noted above, except receiving the documents produced by the management representative and marking them as exhibits, and requiring the management representative as well as the delinquent employee to submit their written arguments, no other enquiry of whatsoever nature was conducted by the Enquiry Officer. It was on receipt of the written arguments from the management representative and the petitioner, the Enquiry Officer submitted his report by recording his findings on considering the written arguments submitted on either side. For considering the written arguments submitted by the management representative as well as the delinquent employee, there is no necessity of appointing an Enquiry Officer, and such an exercise can as well be undertaken by the Disciplinary Authority himself.

16. Once an Enquiry Officer was appointed to enquire into the charges levelled against the petitioner, especially for imposing a major penalty of

removal/ dismissal from service under Rule 6.15, in terms of Rule 6.17, it is mandatory to conduct a detail oral enquiry, which is conspicuously absent in the instant case. Thus, the very purpose of appointing an Enquiry Officer is frustrated. Even from the perusal of the report of the Enquiry Officer, it is evident that the Enquiry Officer, having claimed to have taken into consideration the written arguments submitted by the management representative as well as the petitioner, failed to consider the written arguments submitted by the petitioner in respect of some of the charges and the same is apparent from the very report of the Enquiry Officer. For instance, in respect of Charges 19 and 20, the Enquiry Officer, having extracted the charge and taken note of the arguments of the management representative, failed to take into consideration the stand of the petitioner but recorded his findings holding the said charges as 'proved'. From this, it is evident that the Enquiry Officer has not applied his mind and has not considered the explanation/ written arguments submitted by the petitioner in respect of some of the charges.

17. Then, coming to the order passed by the Respondent No.1/ Disciplinary Authority, the Disciplinary Authority has chosen to drop the charges 1 to 6 against the petitioner, as the petitioner acted in accordance with

the instructions issued by the Branch Manager at the relevant point of time and therefore, held that he cannot be held responsible. From the perusal of the said order dated 21.03.2001, it is noticed that the Disciplinary Authority, having afforded an opportunity to the petitioner to submit his objections against the report of the Enquiry Officer, failed to refer to Charge No.20 and also failed to consider the objections/ stand of the petitioner in respect of the said charge, but erroneously came to the conclusion that Charges 8 to 24, including the Charge No.20, as 'proved', concurring with the views of the Enquiry Officer.

18. Thus, it is evident that, though the Respondent No.1 afforded an opportunity to the petitioner to submit his objections against the report of the Enquiry Officer, and inspite of the fact that the petitioner has submitted his specific objections in respect of all the charges, including Charge No.20, the Respondent No.1 failed to consider the same, thereby rendering the very opportunity afforded to the petitioner against the report of the Enquiry Officer as useless. Thus, the non-application of mind on the part of the Respondent No.1 is apparent on the face of the order. When the petitioner filed an appeal before the Respondent No.2, the Respondent No.2 proposed to enhance the punishment on the ground that the Disciplinary Authority has taken a lenient

view, basing upon the charges held to have been proved against the petitioner, though the charges that are levelled and proved are grave in nature by issuing a show-cause notice dated 15.02.2002. A perusal of the said show-cause notice does not indicate any proposal to reconsider the findings recorded by the Disciplinary Authority on each of the charges but only proposal is to enhance the punishment in the light of the gravity of the charges that are held to have been proved against the petitioner namely Charges 8 to 24. But when the petitioner submitted his detailed explanations to the said show-cause notices on 21.03.2001 and on 14.05.2002, the Respondent No.2/ Appellate Authority, though extracted the same extenso in the final order dated 18.11.2002, has not addressed the same in a proper perspective especially in the matter of violation of Rule 6.17. When the Appellate Authority brushed aside objections specifically raised by the petitioner on the ground of violation of Rule 6.17 and not affording opportunity of cross-examination, the Appellate Authority rejected the said contention on the ground that the right of cross-examination arise only when oral evidence is recorded and there was no need for oral evidence. The Appellate Authority failed to consider the effect of Rule 6.17 of the Service Rules. Thus, it appears, at every stage, the respondents have considered the matter without any seriousness and in a hurry to impose the punishment.

19. Then, coming to the other contention of the learned counsel for the petitioner that the petitioner was not allowed to have the assistance of a co-employee, namely Mr.A.Mohan, Assistant Manager, in violation of the principles of natural justice is concerned, there is sufficient material on record to show that the petitioner has made a specific request for assistance of one Mr.A.Mohan, but the same was denied by the respondents on the ground that the said Mr.A.Mohan was under suspension in connection with some other disciplinary proceedings initiated against him. Further representations made by the petitioner informing the Respondent No.1 that several other employees contacted by him are not inclined to assist the petitioner during the enquiry proceedings because of the threat of victimization and requested for assistance of Mr.A.Mohan, but the same was refused on the ground that the said Mr.A.Mohan was under suspension.

20. From the perusal of the Service Rules, it appears that there is no provision, which prohibits taking the assistance of an employee who is placed under suspension in connection with some other disciplinary proceedings. Further, from the perusal of the letter dated 30.07.1999, it is evident that the Respondent No.1 refused to appoint Mr.A.Mohan as assisting employee on

administrative reasons and required the petitioner to communicate a panel of other employees of the Corporation and offered to permit one among the panel, subject to suitability. Taking the assistance of a co-employee shall always be at the discretion of the petitioner, but not at the whims and fancies of the management. It is not the case of the respondents that the petitioner is not entitled for such assistance.

21. In the absence of any rule prohibiting taking assistance of a employee placed under suspension, there is no justification for the respondents to deny the assistance of Mr.A.Mohan. Even before the Enquiry Officer, the petitioner made efforts to take the assistance of Mr.A.Mohan, but the same was not allowed, and the stand of the management representative before the Enquiry Officer in this regard is strange. It would be appropriate to re-produce the same for proper appreciation:-

> *"Sir, the Management is an entity and hence nominating their representative. But in the case of T.C., he is an individual and has to defend the charges. If he wants any representative, he has to select to the satisfaction of the management. Further, the E.O. As a judiciary authority, can only suggest to consider the representative, but he cannot direct the management to approve for a specific person. I wish to submit that management has not given any training to represent in the enquiry. I am only representing management to prove the charges framed against E.C. Which he had*

committed.”

22. As rightly contended by the learned counsel appearing for the respondents, the scope of interference by this court while exercising jurisdiction under Article 226 of the Constitution of India is very limited, and this court cannot act as an appellate court. It is also true that this court should be more careful when dealing with the allegations of misconduct on part of a bank officer. It is also true that in case, if a lesser punishment is imposed on any delinquent employee by mistake, the same cannot be claimed as a matter of right, as negative equality is not the one contemplated under Articles 14 & 16 of the Constitution of India. It is also true that the strict rules of evidence have no application to the disciplinary proceedings, but that does not mean that the respondents can deviate from mandatory procedures contemplated under the relevant rules, which in the instant case is Rule 6.17. Therefore, there is no quarrel with the ratio laid down by the Hon'ble Apex Court in the decisions relied upon by learned counsel appearing for the respondents, and this court is of the considered view that this court has not deviated from the ratio laid down in any of the above said decisions. Thus, there is violation of principles of natural justice even in the matter of providing a co-employee to assist the petitioner during the course of enquiry. Thus, the impugned orders

are liable to be quashed on this ground as well.

23. Much can be said on the charges that are levelled against the petitioner and non-consideration of the explanation submitted by the petitioner. For instance, in respect of Charge No.20, the charge levelled against the petitioner is that he failed to take any action against the borrower and the property owner who had offered collateral security and cheated the corporation by furnishing a tampered sale deed, even after the same was brought to his knowledge. In response to the said charge, the petitioner had submitted an explanation that by the time the matter has come to the knowledge of the petitioner, he was transferred from that place where he was working and was placed under suspension, and therefore, he could not take any further action. But the same was not at all taken into consideration either by the Enquiry Officer or by the Disciplinary / Appellate Authorities. But, the said charge was held to have been proved. This one instance is quoted only to show the manner in which the disciplinary proceedings were concluded against the petitioner.

24. Insofar as the contention of the learned counsel for the petitioner on the ground that the co-employees who are similarly placed like the petitioner

who were also subjected to the disciplinary proceedings on identical charges were imposed with a lesser punishment by comparing with Mr.L.P.Rajkumar and M/s.S.Mohana is concerned, this court, having perused the charges that are levelled against the petitioner as well as the said two officers, is not inclined to accept the said contentions, as there is similarity only in respect of some of the charges and also because of the fact that the charges that are levelled against the other employees are in respect of different loan transaction and the same has nothing to do with the loan transaction in respect of which the petitioner herein was charged. This court is also conscious of the fact that the Branch Manager, by name Mr.D.Karunanidhi, who was also subjected to disciplinary proceedings in respect of the very same loan account in respect of which the petitioner was subjected to disciplinary proceedings, was already 'dismissed from service'.

25. In the light of the above, both the impugned orders and the enquiry that was conducted against the petitioner are all liable to be declared as vitiated and consequently, the impugned orders bearing No.Admn/DW/2000-01 dated 21.03.2001 and No.TIIC/Admn/DW/2002-03 dated 18.11.2002 are liable to be quashed.

26. As this court is inclined to interfere with the impugned orders on the ground of violation of principles of natural justice as well as the violation of mandatory procedure, in the normal course, this court would have remanded the matter back to the respondents for re-doing the entire exercise in accordance with law. But in the instant case, taking into consideration the fact that the charges that are levelled against the petitioner are pertaining to the period prior to 06.07.1999 i.e., almost of 26 years old, and that the petitioner has also attained the age of superannuation long back, who is now aged 76 years, does not deem it appropriate to remit the matter back to the respondents for re-doing the entire exercise, especially in the context of the fact that it may not be possible for the petitioner, who is now aged 76 years, to defend his case effectively at this stage. At the same time, it cannot be said that the petitioner should be allowed to go scot-free, especially taking into consideration the nature of the charges that are levelled against the petitioner. In the circumstances, this court is of the considered view that it would be appropriate and in the interest of justice to give a quietus to the entire episode by imposing appropriate punishment here itself.

27. In this connection, this court is guided by the principles laid down by the Hon'ble Apex Court in the case of ***"Lucknow Ksetriya Gramin Bank***

and another -vs- Rajendra Singh" reported in **(2013) 12 SCC 372,** wherein it was held as under:-

> "**19.** The principles discussed above can be summed up and summarised as follows:
>
> ***19.1.*** *When charge(s) of misconduct is proved in an enquiry the quantum of punishment to be imposed in a particular case is essentially the domain of the departmental authorities.*
>
> ***19.2.*** *The courts cannot assume the function of disciplinary/departmental authorities and to decide the quantum of punishment and nature of penalty to be awarded, as this function is exclusively within the jurisdiction of the competent authority.*
>
> ***19.3.*** *Limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the court.*
>
> ***19.4.*** *Even in such a case when the punishment is set aside as shockingly disproportionate to the nature of charges framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The court by itself cannot mandate as to what should be the penalty in such a case.*
>
> ***19.5.*** *The only exception to the principle stated in para 19.4 above, would be in those cases where the co-delinquent is awarded lesser*

punishment by the disciplinary authority even when the charges of misconduct were identical or the co-delinquent was foisted with more serious charges. This would be on the doctrine of equality when it is found that the employee concerned and the co-delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge but subsequent conduct as well after the service of charge sheet in the two cases. If the co-delinquent accepts the charges, indicating remorse with unqualified apology, lesser punishment to him would be justifiable.

***20.** It is made clear that such a comparison is permissible only when the other employee(s) who is given lighter punishment was a co-delinquent. Such a comparison is not permissible by citing the cases of other employees, as precedents, in altogether different departmental enquiries."*

28. In the light of the above, this court is of the considered view that it would be appropriate to impose the punishment of 'compulsory retirement' on the petitioner under Rule 6.15(b)(viii) of the Service Rules of the respondent Corporation with effect from 21.03.2001 i.e., the date of order passed by the Respondent No.1/ Disciplinary Authority, instead of 'removal/ dismissal from service', imposed under the impugned orders.

29. Accordingly, the writ petition is allowed, setting aside the punishment of 'removal/ dismissal from service' and duly substituting the

same with the punishment of 'compulsory retirement' with effect from 21.03.2001 i.e., the date of order passed by the Respondent No.1/ Disciplinary Authority. The respondents are directed to pass appropriate consequential orders and pay all the amounts that would be payable to the petitioner within a period of six weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petitions, if any, shall stand closed.

17.10.2025

skr
Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No

To

1. The Managing Director,
   The Tamil Nadu Industrial Investment Corporation Ltd.,
   473, Anna Salai, Nandanam, Chennai – 600 035.

2. The Chairman, Board of Directors,
   The Tamil Nadu Industrial Investment Corporation Ltd.,
   473, Anna Salai, Nandanam, Chennai – 600 035.

MUMMINENI SUDHEER KUMAR, J.

skr

Pre-Delivery Order made in
W.P.No.5201 of 2004

17.10.2025