IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

W.A.No.2841 of 2022
and CMP.No.23227 of 2022

1.State of Tamil Nadu,
Rep. By its Secretary,
Commercial Taxes & Registration Department,
Fort St. George,
Chennai-600 009

2.The Commissioner of Commercial Taxes,
Chepauk,
Chennai-600 005 ... Appellants

Vs.

K.Dhakshanamoorthy
... Respondent

PRAYER: Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order passed by the learned Judge, dated 05.03.2020 made in W.P.No.20881 of 2013.

For Appellants : Mr.C.Harsha Raj

Additional Government Pleader

For Respondent : Mr.P.V.Sudakar

JUDGMENT

(Judgment of this Court was delivered by M.S.RAMESH.J)

This Writ Appeal has been filed to set aside the order passed by the learned Single Judge in W.P.No.20881 of 2013 dated 05.03.2020.

2. Six charges were framed against the respondent herein through a charge memo dated 30.03.2006, alleging misconducts and for proceeding under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, 1955. During the course of enquiry, the Enquiry Officer had found Charges No.2 to 5, as not proved and the Charge No.1, as partly proved. However, the Disciplinary Authority had deviated from the findings of the Enquiry Officer and through a letter dated 17.06.2008, had informed the respondent of the reasons for such deviation and therefore, called for further explanation. The respondent herein had also given his explanations on 11.08.2008 towards the deviation letter of the Disciplinary Authority. However, the same came to be rejected and the punishment of stoppage of increment for four years with cumulative effect was imposed on 06.02.2009.

The Appeal against the said punishment before the first appellant herein was also rejected on 13.06.2013. When the respondent herein had challenged both the punishment order, as well as the order in the Appeal before the learned Single Judge of this Court in W.P.No.20881 of 2013, the Writ Petition came to be allowed on 05.03.2020, which order is assailed in this Writ Appeal.

3. The Disciplinary Authority, while deviating from the findings of the Enquiry Officer, had, no doubt given his reasons for such deviation through a letter dated 17.06.2008. However, upon submission of a further representation by the respondent on 11.08.2008, the same came to be rejected through the punishment order dated 06.02.2009.

4. We have gone through the orders passed by the Disciplinary Authority, as well as the Appellate Authority. Though the order of the Disciplinary Authority dated 06.02.2009 runs to about eleven pages, the actual findings are confined to the paragraph relating to imposition of penalty, which reads as follows:

"Conclusion of the Disciplinary Authority:

2.Since, the charges 1,2,3,4 and 5 are held as

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proved, Charge No.6 is also therefore proved.

Based on the facts and materials available in the relevant records, it is evidence that the charged officer had failed to discharge his duties. For the proven charges, Thiru K.Dakshinamoorthy, formerly Assistant Commercial Tax Officer, Kottakuppam Checkpost and now Assistant Commercial Tax Officer/Superintendent, Office of the Commercial Tax Officer, Panruti (Rural), is awarded a punishment of <u>stoppage of increment for four years with cumulative effect</u>. This punishment is intended to affect his pension and the period of punishment is inclusive of leave, if any, spent during the period of punishment."

5. The rest of the order is only the extract of the charges, the explanation of the delinquent officer towards the charges, the findings of the Enquiry Officer, the reasons for disagreement with those findings, and the further representation of the delinquent officer.

6. There is absolutely no application of mind on the part of the Disciplinary Authority to the explanation rendered by the respondent herein towards the Deviation Report. The very purpose for which the Disciplinary Authority is required to inform the delinquent about reasons for deviating

from the findings of the Enquiry Officer, is to extend an opportunity to the delinquent officer to render his explanation or justification of his case. When and if the delinquent officer renders his explanation, it is the duty of the Disciplinary Authority to address all the grounds raised in the delinquent's explanation and then pass the final order, in the absence of which, the order would be violative of the principles of natural justice.

7. In the instant case, the disciplinary authority had mistakenly extracted the facts and pleadings of the case and without giving any reasons for his disagreement with the explanation, given by the delinquent officer, had simply held that all the charges are proved. Such a non-speaking order cannot be legally sustainable, and hence, the consequential punishment order also warrants interference. Similarly, the Government, while dealing with the respondent's Appeal had passed orders on 13.06.2013, rejecting the Appeal. The portion of the rejection of the said order reads as follows:

> *"7.The Government have examined the appeal preferred by Thiru.K.Dakshinamoorthy, formerly Assistant Commercial Tax Officer, Kottakuppam checkpost with relevant records, carefully and independently, along with the views of the Tamil Nadu Public Service Commission*

and have decided to reject the appeal preferred by him in his petition third read above as devoid of merits and order accordingly."

7. This again is another instance of non-application of mind on the part of the first appellant herein. Under Rule 17(b) and Rule 20(3) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, 1955, a procedure has been prescribed for the Disciplinary Authority, as well as the Appellate Authority to deal with the disciplinary proceedings / Appeals. Both these provisions mandate application of mind on the part of the Disciplinary Authority / Appellate Authority and for consideration of the defence taken by the delinquent officer. Both these procedures have been violated and hence, the consequential punishment order, as well as the order in Appeal cannot be sustained.

8. In normal circumstances, we would have remitted back the matter to the Disciplinary Authority for reconsideration of the materials before the Enquiry Officer. However, in the instant case, the delinquent officer had retired from services on 30.06.2013, and hence, the remission of the matter would cause serious prejudice to the officer, who is a senior citizen.

9. In this background, we do not find any reasons to interfere with the order passed in the Writ Petition. Accordingly, this Writ Appeal stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

[M.S.R., J] **[R.S.V.,J]**

04.11.2025

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