IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :08.08.2025

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THE HONOURABLE Mr.JUSTICE HEMANT CHANDANGOUDAR

W.P.Nos.16335 and 16336 of 2014
and M.P.No.1 of 2014

W.P.No.16335 of 2014:

R.Balasubramanian ... Petitioner

Vs.

1.The Secretary to Government,
Revenue (Ser.3(1) Department,
Government of Tamil Nadu,
Fort St.George,
Chennai – 600 009.

2.The District Collector,
Tuticorin District,
Korampallam,
Tuticorin – 628 101. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari or any other appropriate writ or order or directive in the nature of the writ by calling for the records relating to the order dated 13.08.2012 passed in G.O.(D).No.224 Revenue (Ser-3(1) Department) on the file of the first respondent herein and to quash the same.

W.P.No.16336 of 2014:

R.Balasubramanian ... Petitioner

Vs.

1.The Secretary to Government,
Revenue (Ser.3(1) Department,
Government of Tamil Nadu,
Fort St.George,
Chennai – 600 009.

2.The District Collector,
Tuticorin District,
Korampallam,
Tuticorin – 628 101.

3.The Principal Accountant General (A & E)
Tamil Nadu,
Anna Salai,
Chennai – 600 018. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari or any other appropriate writ or order or directive in the nature of the writ by calling for the records relating to the order dated 19.02.2014 passed in G.O.(2D).No.153 Revenue (Ser-3(1) Department) on the file of the first respondent herein and to quash the same.

W.P.No.16335 of 2014:

For Petitioner : Mr.S.Subbiah
Senior Counsel
for M/s.Elizabeth Ravi
Mr.P.Raja

For Respondents :Mr.L.S.M.Hasan Faizil for R1 and R2
Additional Government Pleader

W.P.No.16336 of 2014:

For Petitioner
in both W.Ps : Mr.S.Subbiah
Senior Counsel
for M/s.Elizabeth Ravi
Mr.P.Raja

For Respondents
in both W.Ps :Mr.L.S.M.Hasan Faizil for R1 and R2
Additional Government Pleader
: No appearance for R3

COMMON ORDER

The issues involved in these captioned writ petitions are interlinked. Therefore, they are taken up together, heard, and are being disposed of by this common order.

2. The writ petition in W.P.No.16335 of 2014 assails the order dated 13.08.2012 issued by the first respondent, whereby the petitioner, who was then working as an Excise Supervisory Officer, was imposed with the major penalty of compulsory retirement from service.

3. The writ petition in W.P.No.16336 of 2014 challenges the order dated 19.02.2014 issued by the first respondent, wherein it was stated that, consequent upon his compulsory retirement, the petitioner would be entitled only to two-thirds of his eligible pension and the death-cum-retirement gratuity.

4. The petitioner, while serving as an Excise Supervisory Officer, was issued a show cause notice enclosing a charge memo calling upon him to explain as to why disciplinary action should not be initiated against him. The charges were as follows:

- *Charge 1:*

During the period from 05.11.2002 to 16.12.2003, while working in the office of the Assistant Commissioner (Excise), Tuticorin, the delinquent officer, along with nine employees of the TASMAC Godown (namely Gopalakrishnan, Kalyani, Jagannathan, Murugiah, Gurusamy, Jayamanickam, Veeraputhiran, Kanagaraj, and Krishnan), in collusion with retail licensees, accountants, and employees, collected illegal gratification. Initially, the collection was made through the Office Assistant Veeraputhiran or the security personnel, and after 19.12.2002, it was made through outsiders.

- *Charge 2:*

On 14.01.2003, the delinquent officer, along with the said *nine employees of the TASMAC Godown, jointly collected a sum of ?4,330/- as bribe from retail sale licensees, accountants, and employees, when they came to purchase liquor. The collection was allegedly made through outsiders, namely Mr. H. Mathan Kumar, Mr. V. Murugan, and Mr. D. Rajkumar.*

- *Charge 3:*

The delinquent officer collected bribes by misusing his official position, thereby acting contrary to law.

- *Charge 4:*

By failing to dedicate himself to his duties with honesty and integrity, the delinquent officer violated Rule 20 of the Tamil Nadu Government Servants' Conduct Rules, 1973.

5. The petitioner asserts that he submitted a detailed explanation denying the charges. However, according to him, the Enquiry Officer, without properly considering his explanation, proceeded with the enquiry and ultimately submitted a report holding that all charges against the

petitioner stood proved.

6. Following the submission of the enquiry report, the disciplinary authority (first respondent) issued a second show cause notice calling upon the petitioner to explain as to why the findings of the enquiry officer should not be accepted. The petitioner submitted a further response. Thereafter, the disciplinary authority, upon consideration of the enquiry report and the petitioner's further response, passed the impugned order dated 13.08.2012, compulsorily retiring the petitioner from service. Subsequently, by order dated 19.02.2014, the first respondent directed that the petitioner would be entitled only to two-thirds of the pension along with death-cum-retirement gratuity. Aggrieved thereby, the present writ petitions have been filed.

7. Learned Senior Counsel appearing for the petitioner submitted that the findings of the Enquiry Officer are wholly unsustainable, inasmuch as they are based primarily on the statements of prosecution witnesses and unsupported by any documentary evidence. He contended that the testimony of the said witnesses did not establish that the petitioner had personally received any illegal gratification as alleged in the charge memo.

8. It was further argued that the disciplinary authority, while accepting the enquiry report, did so mechanically and without assigning any independent reasons. According to the learned Senior Counsel, such a course of action is in violation of the principles of natural justice, thereby rendering the impugned order of compulsory retirement legally unsustainable.

9. In support of his submissions, the learned Senior Counsel placed reliance on the following decisions:

1.Basudev Dutta vs. State of West Bengal and others [2024 SCC Online 3616]
2.Union of India and Others vs. R.P. Singh [(2014) 7 SCC 340]
3.Tamil Nadu Unaided Polytechnic Management Association vs. State of Tamil Nadu [(2018) 4 CTC 129]

10. Per contra, the learned Additional Government Pleader appearing for the respondents submitted that the enquiry officer's findings were based on clear and cogent evidence adduced during the enquiry. It was argued that the prosecution witnesses' statements sufficiently established that the petitioner, while functioning as an Excise Supervisory Officer, had received illegal gratification.

11. It was further submitted that the disciplinary authority, after duly considering both the enquiry report and the petitioner's further response, rightly imposed the penalty of compulsory retirement. Therefore, in the absence of any illegality, perversity, or procedural infirmity, the impugned orders are fully sustainable in law. The writ petitions, being devoid of merit, deserve to be dismissed.

12. The arguments of the learned counsels on either side were heard, and the materials available on record have been carefully perused.

13. Upon recording the statements of the prosecution witnesses, the enquiry officer reached the following findings:

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10. Findings given by the Enquiry Officer, over the charges:

Findings for Charge No.1:

PW1, Mr.Yogaraj has deposed that when Police officials of the Vigilance and Anti Corruption Department, Tuticorin, inspected the TASMAC godown, in CIPCOT Complex, Tuticorin, on 14.01.03, he came there to take liquor stock for Tharuvaikkulam Athirshtaraj shop and that he gave Rs.1,00,040/- and had loaded the stock and transported, by vehicle No."P986", for which, there are records and signatures available. He has deposed that he would happily give Mr.H.Mathankumar, Mr.Murugan and Mr.T.Rajkumar, Rs.20/- per shop, for writing bills, and Rs.100/- or Rs.50/- for loading stocks for shop and he did not remember, whether on that day, he gave money, to the employees, available there. In his cross examination, he has deposed that he usually give petty wage to the bill writers and that he does not know, who would give the money he gives happily, to whom, and who would receive and that the accused officer never demanded any money for himself and never gave any amount. His evidence confirms PW7 and PW8.

PW2, Mr.T.Isakkimuthu, in his evidence, has deposed that on 14.01.03, he went to godown, take stock, for two shops and that he gave Rs.340/- to Mr.Murugan, at Rs.170/- per shop and out of that amount, Rs.20/- is writing wage and the balance is petty wage. In cross examination, he has deposed that he has not stated that the accused officer either demanded or gave amount. PW3, Mr.Thavasimani, in his evidence has deposed that on 14.01.03, at 4.30 evening, police officials from Vigilance and Anti Corruption Department, came for inspection and that they were talking to the bill writers, Mr.Rajkumar, Mr.Mathankumar and Mr.Murugan and

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that they were there for nearly one hour and that he knows the accused officer, Mr.Balasubramaniam and that even before this TASMAC godown has been shifted to this place and even before 1999, they used to write bills for shop vendors and that they would give the petty wage to us and that sometimes, they used to give to bill writers, namely, Mr.Rajkumar, Mr.Mathankumar and Mr.Murugan. He did not specifically mentioned anything about the accused officer. PW4, Mr.Mathankumar, in his evidence has deposed that he was writing liquor bottles details, in TASMAC godown, in the year 2001-2003 and that the stock loading shop vendors, used to give Rs.20/- for wage and Rs.100/- to officers and Rs.50/- to the said officers themselves and that after the Liquor Prohibition Raid in the year 2002, instead of receiving that amount, directly, he requested to give through outsiders, who writes bills, Mr.Rajkumar, Mr.Mathankumar and Mr.Murugan. From then onwards, for every shop, for which, we write bills, he would receive Rs170/- and he would take Rs.20/- towards writing wage and Rs.50/- for the said officer (Mr.Balasubramanian), and the balance amount of Rs.100/-, he used to give to Security, Mr.Krishnan and Kanagaraj and in their absence, he would handover to Mr.Veerabathran, Office Assistant and that on 14.01.03, at 5.10 pm, when the Vigilance and Anti Corruption Police officials inspected, he surrendered Rs.1910/-, which was available with him and that when they asked me as to how I got this amount, I wrote bill details for shops and that they would give Rs.170/- per shop and that out of the said amount, he would take Rs.20/- and Rs.50/- to the said officer (Mr.Balasubramaniam) and the balance amount of Rs.100/- to the 9 employees, including TASMAC Manager, and in the absence of securities, Mr.Krishnan and Mr.Kanagaraj, he would handover to Mr.Veerabathran and that they would apportion that amount among themselves, equally. He has mentioned this in Ex.P26 Enquiry Report. But in his cross examination, he has stated that he does not remember, whether he mentioned as Rs.50/- was given directly. During inspection on 14.01.03, bill writers, Mr.Murugan and Mr.Rajkumar also stated the same, as PW4. He has deposed that Ex.P7, small slip was written by him, in his own handwriting. It was not attested by any officer. This confirms the evidence of PW7, 8 and 9. PW5' evidence is hostile. Moreover, the statement of PW6, Mr.M.Chandran that the accused officer cannot control the TASMAC employees, is unacceptable. Further, as PW7 and PW8, along with police party, inspected the TASMAC godown, on 14.01.03, evening, he did not mention anything specifically, about the accused officer. All he has stated are mere hearsay. Because, it is argued on the side of the accused officer that in Ex.P7, there are no other details and it has not been attested by PW8, it cannot be confirmed that the accused officer is beyond suspicion. PW9, Mr.Rajkumar, who is the investigating officer is the eye witness. On the whole, from the enquiry, as the Vigilance and Anti Corruption Police inspected the TASMAC godown, on 14.01.03 and that Rs.1910/- was seized from PW4, as per his evidence it is proved that the accused officer, Mr.Balasubramanian, who was working as Excise Supervisor, in TASMAC godown, for the period from 05.11.02 to 08.12.03, along with the employees, working in TASMAC godown, used to receive bribe, till 19.12.02, through Mr.Veerabadran, Office Assistant or through security personnel.

Findings for Charge No.2:

From the evidence of PW1, 2, 3, 4, 7, 8 and 9, it is proved that on 14.01.03, the accused officer, along with TASMAC employees, he used to receive bribe, to the tune of Rs.4330/-, from the liquor retail shop vendors, when they come for purchasing liquor loads and from accountants and employees, through outsiders, namely Mr.H.Mathankumar, Mr.V.Murugan and Mr.Rajkumar.

Findings for Charge No.3:

Since charges 1 and 2 are proved, charge 3 also stand proved.

Findings for Charge No.4:

Since charges 1, 2 and 3 are proved, charge 4 also stand proved.

Sd/-

Enquiry Officer cum
District Backward Classes and
Minorities Welfare Officer,
Tuticorin

14. A perusal of the findings recorded by the Enquiry Officer reveals that PW-1 admitted that the petitioner neither demanded any money for himself nor received any amount. PW-2, in his cross-examination, stated that he was not certain whether the alleged payment of Rs.50/- was made directly to the petitioner. None of the prosecution witnesses specifically stated that the petitioner had received any gratification from the retail licensees, accountants, or employees when they came to purchase liquor. The allegations, therefore, are only hearsay. In the absence of any substantive or corroborative evidence to establish the charges against the petitioner, and in the absence of any complaint from the retail licensees, accountants, or employees, the finding of the Enquiry Officer is without any substance.

15. Following the submission of the enquiry report, the petitioner was called upon to submit a further response, which he duly submitted. A perusal of the impugned order reveals that the Disciplinary Authority has not given any independent reasoning with respect to Charge No.4. The impugned order merely states that, since Charges No.1 to 3 stood proved,

Charge No.4 also stood proved, and therefore, punishment of compulsory retirement was imposed upon the petitioner. To that effect, an opinion was obtained under Rule 18(1)(b)(iii) of the Tamil Nadu Public Service Commission Regulations, and acting upon the advice of the Service Commission, the punishment of compulsory retirement was imposed.

16. The Hon'ble Apex Court in ***Basudev Dutta vs. State of West Bengal and others*** **[2024 SCC OnLine SC 3616]** has categorically held that it is settled law that every administrative or quasi-judicial order must contain reasons. Recording of reasons ensures that the authority has applied its mind to the facts and law, provides the aggrieved party a basis to challenge the order in the manner known to law, and enables judicial authorities to test the correctness of such order while exercising the power of judicial review. In the absence of reasons, the order cannot be sustained.

17. It is also relevant to extract Rule 18(a) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, which reads as follows:

> ***Rule 18(a): Records to be maintained by authorities imposing penalties:***
>
> *The authority imposing any penalty under these rules shall*

maintain a record showing—

(i). the allegations upon which action was taken against the person punished;

(ii). the charges framed, if any;

(iii). the person's representation, if any, and the evidence taken, if any; and

(iv). the findings and the grounds thereof, if any.

18. As per the above Rule, if the Disciplinary Authority fails to record specific findings and the grounds thereof while imposing the penalty of compulsory retirement, such action amounts to a violation of the principles of natural justice.

19. In light of the foregoing discussion, the impugned order passed by the Disciplinary Authority imposing compulsory retirement on the petitioner, and the consequential order restricting him to 2/3rd of admissible pension, are not legally sustainable and are liable to be set aside.

20. Accordingly, the impugned order dated 13.08.2012 issued by the first respondent in W.P.No.16335 of 2014, and the order dated 19.02.2014 passed in G.O.(D).No.153, Revenue (Ser-3(1)) Department, are hereby quashed. The respondents are directed to re-fix and pay all monetary

benefits and other consequential benefits flowing from this order. The said exercise shall be completed within a period of four months from the date of receipt of a copy of this order, including fixation of pensionary benefits.

21. With the above observations, this writ petition is allowed. No costs. Consequently connected miscellaneous petition is closed.

08.08.2025

Index : Yes/No

Internet : Yes

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To

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Fort St.George,
Chennai – 600 009.

2.The District Collector,
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HEMANT CHANDANGOUDAR, J.

msv

W.P.Nos.16335 and 16336 of 2014

and M.P.No.1 of 2014

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