IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2025

Coram:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.17994 of 2014
and M.P.No.1 of 2014

P.Ramasamy

...Petitioner

Versus

1.The Government of Tamil Nadu,
Represented by Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat, Chennai – 600 009.

2.The Inspector General of Registration,
Chennai – 600 028.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the 1st respondent relating to G.O.(D)No.646/C.T & R(H) Department dated 26.11.2013 to quash the same and to issue consequential direction to the first respondent to permit the petitioner to retire from service on 30.06.2006 AN without any condition and to grant him all consequential benefits with due interest on the delayed payment.

For Petitioner	:	Mr.M.Ravi
For Respondents	:	Mr.R.Sasikumar, Government Advocate

ORDER

The relief sought in this Writ Petition is to quash the Order in G.O.(D)No.646/C.T & R(H) Department dated 26.11.2013 (hereinafter referred to as "Impugned Order") passed by the 1st Respondent and to issue consequential direction to the 1st Respondent to permit the Petitioner to retire from service on 30.06.2006 AN without any condition and to grant him all consequential benefits with due interest on the delayed payment.

2. The brief facts of the case are that while the Petitioner was working as District Registrar, Tiruvannamalai Registration District, he failed to supervise the work of his subordinate and also, failed to see the reconciliation of revenue under receipt head bearing 0030 and thereby, caused a loss of stamp duty revenue to the tune of Rs.2,61,415/- to the Government. Hence, disciplinary action was initiated against the Petitioner under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules and the Petitioner was issued with a Charge Memo dated 16.09.2002 bearing No.33870/B7/2002-10 by the 2nd Respondent. The charge framed against the Petitioner reads as under:

Mr.P.Ramasamy, while presiding over the District Registrar, Tiruvannamalai, has caused loss of stamp duty revenue to the Government during his tenure, by not reconciling the original Registration Section and Joint Sub Registrar-II Office accounts with the Treasury accounts and thereby, causing loss of stamp duty revenue to the Government as detailed in Column 5 of the following list, he has violated the instructions issued by the Inspector General of Registration Order No.7245/C4/74 dated 10.06.74 and Inspector General of Registration Letter No.28219/E2/97-2 dated 13.05.97 and standing order No.1469, 1470 and 714(ii).

S.No.	Document No.	Stamp Duty to be collected (Rs.)	Stamp duty contained in the Document (Rs.)	Loss of Stamp Duty due to sanction of false challan (Rs.)
1	1471/98	12680	50	12630
2	585/99	38280	280	38000
3	2278/98	14300	100	14200
4	523/99	11000	0	11000
5	3379/99	10050	50	10000
6	3903/99	10650	50	10600
7	4322/99	10850	50	10800
8	137/2000	47960	60	47900
9	770/2000	10060	60	10000
10	618/2000	10750	750	10000
11	928/2000	33100	100	33000
12	2159/2000	10100	100	10000
13	4096/2000	12250	50	12200
14	4543/2000	15925	0	15925
15	2677/2000	15160	0	15160
Total		2,63,115	1,700	2,61,415

3. In response to the aforesaid Charge Memo, the Petitioner submitted his detailed Explanation dated 16.12.2002, denying the charges levelled against him. The Charge Memo dated 16.09.2002 issued by the 2nd

Respondent preceded a fresh Charge Memo dated 18.01.2005 which was issued by the 1st Respondent, reiterating the very same allegation in the earlier Charge Memo, to which, the Petitioner submitted his Explanation on 07.03.2005.

4. Thereafter, the Government vide G.O.(D).No.215 Commercial Taxes (H) Department dated 16.06.2005, appointed Mr.R.Shanmugam, Deputy Inspector General of Registration, Thanjavur to enquire into the charges framed against the Petitioner. The Enquiry Officer conducted the enquiry and submitted the Enquiry Report dated 25.10.2005 holding that the charge framed against the Petitioner was proved.

5. While so, the 1st Respondent vide G.O.(D).No.283 Commercial Taxes and Registration (H1) Department dated 30.06.2006, suspended the Petitioner from service. Further, the 1st Respondent vide G.O.(2D) No.76 Commercial Taxes and Registration (H1) Department dated 30.06.2006, passed an order not permitting the Petitioner to retire from service when he attains the age of superannuation of 30.06.2006 AN, retaining him in service under FR 56(1)(c).

6. The 1st Respondent vide Letter No.8477/H1/04-32 dated 26.07.2006, served a copy of the Enquiry Report to the Petitioner and called upon the Petitioner to submit his Representation. Hence, the Petitioner submitted his Representation dated 14.09.2006 before the 1st Respondent.

7. Subsequently, the 1st Respondent vide G.O.(D).No.464 Commercial Taxes and Registration (H) Department dated 12.11.2010, revoked the Order of Suspension and permitted the Petitioner to retire from service with effect from 30.06.2006 AN without prejudice to the disciplinary proceedings pending against him.

8. However, the 1st Respondent vide Letter No.2529/H/2007-3 dated 20.12.2010, informed the Petitioner that it has been decided to deduct a sum of Rs.500/- from the Petitioner's pension for six months as punishment for the proven allegation and called upon the Petitioner to send his reply, within 15 days from the date of receipt of that Letter. Hence, the Petitioner sent his Reply dated 25.01.2011 to the 1st Respondent, stating that he was no way responsible to the lapses pointed out and further, the alleged loss of

Rs.2,61,415/- had been fully recovered and hence, he may be discharged from the charge levelled against him.

9. Under these circumstances, the 1st Respondent vide G.O.(D).No.646 Commercial Taxes and Registration (H) Department dated 26.11.2013, confirmed the proposed penalty of deduction of Rs.500/- per month from the Petitioner's pension for a period of six months. Aggrieved by the same, the Petitioner has filed this Writ Petition.

10. The learned counsel for the Petitioner submitted that the Impugned Order passed by the 1st Respondent has been primarily assailed on the ground that the same suffers from an inordinate delay since the Impugned Order has been passed after a lapse of 10 years from the issuance of Charge Memo dated 16.09.2002 by the 2nd Respondent.

10.1. It is further submitted by the learned counsel for the Petitioner that in view of the pendency of disciplinary proceedings initiated against the Petitioner, the promotion of the Petitioner as an Assistant Inspector General of Registration which was due on 03.05.2005 was deferred and the

Petitioner's immediate junior one Mr.M.Rajamanickam was promoted. It is also submitted that the pendency of the disciplinary proceedings initiated against the Petitioner has had a cascading effect on the terminal benefits and pensionary benefits of the Petitioner.

10.2. That apart, the learned counsel for the Petitioner also submitted that the Petitioner was no way responsible for the alleged collection of deficit stamp duty. However, the alleged loss of Rs.2,61,415/- had been fully recovered from the Petitioner.

10.3. It is also submitted by the learned counsel for the Petitioner that with respect of similar charge, the 1st Respondent had passed an Order in G.O.(2D)No.13 Commercial Taxes & Registration Department dated 04.02.2010 dropping the charge against one Mr.A.Dhanasekaran (former District Registrar, Thiruvannamalai).

10.4. The learned counsel for the Petitioner also drew the attention of this Court to the Order dated 24.04.2006 in W.P.No.28301 of 2005 passed by this Court, wherein, it had been held as follows:

> *"9. It is well settled in law that if employees are involved in the same incident, the Department should proceed against all or should not proceed against none. There is no discretion to proceed against some of employees and no action against the other employees, since they are identically placed and their involvement being identical."*

Therefore, it is submitted that there is no scope for discrimination between the delinquencies and thus, the disciplinary proceedings pending against the Petitioner may be dropped.

10.5. That apart, the learned counsel for the Petitioner drew the attention of this Court to a decision rendered by the Division Bench of this Court in **S.Balasubramanian Vs. The District Collector & Ors.** (Judgment dated 12.09.2019 in W.A.No.2924 of 2019), wherein, it has been held as under:

> *"10. Thus, the Charge memo issued under Rule 17(b) of the Tamil Nadu Civil Services (D&A) Rules, is sought to be proved without examining any witness and solely based on documents. This is contrary to the rules. When statute contemplates a thing to be done in a prescribed manner, the same has to be done, in the manner as provided under law. Reference can be made to the following decisions.*
>
> *(i) In **T.Ramamoorthy v. The Secretary, Sri Ramakrishna Vidyalaya High School, etc. & Others** reported in **1998 Writ. LR 641**, at Paragraph 6, held as follows:*
> *"If the statutory provision enacted by the Legislature prescribed a particular mode for terminating the service or dismissing the teaching or a non-teaching staff of a school, it can and has to be done not only in that manner alone, but it cannot be done in any manner too. This principle that where a power is given to do a certain thing in a certain way, things must be done in that way and not otherwise and that the other method of*

performance is necessarily precluded, is not only well settled, but squarely applies to this case also in construing the scope of the power as also its exercise by the management under Section 22 of the Act."

*(ii) The Hon'ble Supreme Court in **State of Jharkhand v. Ambay Cements** reported in **2005 (1) CTC 223**, at Paragraph 27, held as follows:*

"27. Whenever the statute prescribes that a particular act is to be done in a particular manner and also lays down that failure to comply with the said requirement leads to severe consequences, such requirement would be mandatory. It is the cardinal rule of the interpretation that where a statute provides that a particular thing should be done, it should be done in the manner prescribed and not in any other way. It is also settled rule of interpretation and where a statute is penal in character, it must be strictly construed and followed. Since the requirement, in the instant case of obtaining prior permission is mandatory, therefore, non-compliance of the same must result in cancelling the concession made in favour of the grantee-the respondent herein."

*(iii) In **Pandit D Aher v. State of Maharashtra** reported in **2007 (1) SCC 437**, the Hon'ble Supreme Court, at Paragraph 19, held as follows:*

"It is now well settled that a judicial review would lie even if there is an error of law apparent on the face of the record. If statutory authority uses its power in a manner not provided for in the statute or passes an order without application of mind, judicial review would be maintainable. Even an error of fact for sufficient reasons may attract the principles of judicial review."

10.6. The learned counsel for the Petitioner also drew the attention of this Court to the decision of the Hon'ble Supreme Court in **Bhupinderpal Singh Gill Vs. State of Punjab & Ors. 2025 SCC Online SC 113**, wherein, it has been held as follows:

"40. The order of penalty passed by the Disciplinary Authority dated 11.10.2019, on another count, does not also commend to be legal and valid. A detailed response to the inquiry report had been submitted by the appellant. Dismissing the claims by a single sentence that the same are not acceptable, is not part of a fair procedure. This is a substantial

ground for which appellant's grievance seems to be justified."

11. On the other hand, the learned Government Advocate for the Respondents submitted that this Writ Petition is liable to be dismissed as devoid of merits since there is an alternate remedy available to the Petitioner to challenge the Impugned Order before the Government by way of filing an Appeal.

11.1. It is further submitted by the learned Government Advocate for the Respondents that the Impugned Order passed by the 1st Respondent is a well reasoned order and the same does not warrant any interference.

11.2. The learned Government Advocate for the Respondents also submitted that as a District Registrar, the Petitioner ought to have been vigilant and ought to have verified the challan wise particulars of the deficit stamp duty of a Sub Registrar's Officer with the certified figure obtained from the District Treasury, but, however, the Petitioner failed to perform his work properly and thereby, caused a revenue loss to the Government Exchequer to the tune of Rs.2,61,415/-.

12. In Reply, the learned counsel for the Petitioner submitted that the Impugned Order passed by the 1st Respondent is a cryptic order and the same lacks clear reasoning and justification. Therefore, it is submitted that the Impugned Order is liable to be quashed.

13. I have considered the arguments advanced by the learned counsel for the Petitioner as well as learned Government Advocate for the Respondents and I have also perused the materials available on record.

14. The pendency of the disciplinary proceedings initiated against the Petitioner has had a cascading effect that the promotion of the Petitioner to the post of Assistant Inspector General of Registration was deferred and the Petitioner's immediate junior Mr.M.Rajamanickam was promoted.

15. It is to be noted that the Charge Memo dated 16.09.2002 issued by the 2nd Respondent was once again reiterated in the Charge Memo dated 18.01.2005 issued by the 1st Respondent.

16. The inordinate delay in proceeding with the disciplinary

proceedings pursuant to the Charge Memo had resulted in denial of Petitioner's retirement benefits. If the Petitioner had been proceeded earlier, he would have got his retirement benefits.

17. The Impugned Order passed by the 1st Respondent is a cryptic order. Moreover, the Impugned Order has been passed after obtaining the opinion of the Tamil Nadu Public Service Commission.

18. The Petitioner attained the age of superannuation on 30.06.2006, but, the Impugned Order was passed only on 26.11.2013 i.e., 7 years after the Petitioner attained the age of superannuation. There is a clear violation of the Principles of Natural Justice.

19. However, the penalty awarded to the Petitioner was to deduct a sum of Rs.500/- per month from the Petitioner's pension for a period of six months. Therefore, the total amount of penalty awarded to the Petitioner is only Rs.3,000/- (500 x 6). Hence, this Court is not inclined to modify the amount of penalty imposed on the Petitioner.

20. As far as the duration of pendency of the disciplinary proceedings initiated against the Petitioner is concerned, this Court is of the opinion that if the Impugned Order had been passed in the year 2002 or 2003, the Petitioner would have been eligible for promotion to the next higher post of Assistant Inspector General of Registration and also, the retirement benefits would not have been denied to the Petitioner.

21. There is no doubt. The failure on the part of the Petitioner to verify the challan wise particulars of the deficit stamp duty of a Sub Registrar's Officer with the certified figure obtained from the District Treasury caused a revenue loss to the Government Exchequer to the tune of Rs.2,61,415/-. However, the alleged loss amount of Rs.2,61,415/- has been fully recovered from the Petitioner.

22. Considering the overall facts and circumstances of the case, to balance the interest of the Petitioner, the Respondents are directed to promote the Petitioner retrospectively with effect from 03.05.2005 (the date on which the promotion of the Petitioner as Assistant Inspector General of Registration was due) with all attendant benefits, within a period of four

months from the date of receipt of a copy of this order. The Respondents are thereby directed to calculate all the attendant benefits in accordance with the above direction.

23. This Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

19.03.2025

mrr

Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat, Chennai – 600 009.

2.The Inspector General of Registration,
Chennai – 600 028.

C.SARAVANAN, J.

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W.P.No.17994 of 2014

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