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Rev.Aplw.No.229 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2025

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Review Application No.229 of 2025

in

W.P.No.2872 of 2023

1.The Additional Chief Secretary
To Government
Municipal Administration and
Water Supply (ME-II) Department
Secretariat, Chennai 600 009.

2.The Commissioner of Municipal Administration
11th Floor, Urban Administrative Building
No.75, Santhome High Road
MRC Nagar, Raja Annamalaipuram
Chennai 600 028.

..Review Applicants
Respondents

Vs.

Mrs.N.Lakshmi
W/o.Desingu
Accountant
Panruti Municipality
Panruti, Cuddalore District
Residing at No.8, Neelambari Street
Vallalar Nagar, Villupuram-605 602.

.. Respondent

PRAYER: Review Application has been filed under Order XLVII Rule 1 of CPC r/w Section 114 of C.P.C., to review the order dated 22.10.2024 in WP.No.2872 of 2023.



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For Applicants : Mr.M.Suresh Kumar
Additional Advocate General
Asst.by:
Mr.C.Selvaraj
State Government Advocate

For Respondent : Mrs.B.Sharmila

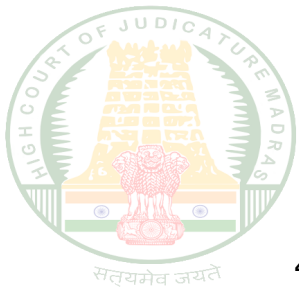
ORDER

This review application has been filed to review the order passed by this Court in WP.No.2872 of 2023 dated 22.10.2024.

2.The review application was filed with a delay of 252 days and this Court, considering the reasons assigned in the affidavit filed in support of the application and also the grounds raised in the review, condoned the delay by order dated 25.08.2025 and directed the Registry to list the review application for final hearing.

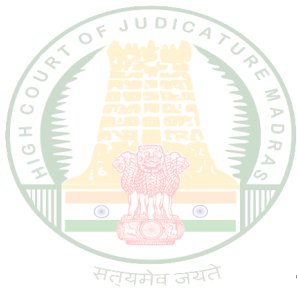
2.Heard the learned counsel for the applicants and the learned counsel for the respondent.

3.The learned Additional Advocate General primarily raised three grounds while seeking for the review of the order passed by this Court in the writ petition.



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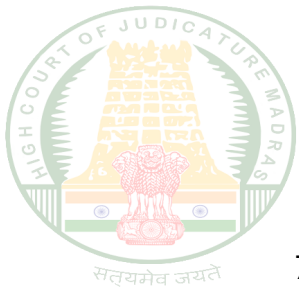
4.The first ground that was raised by the learned Additional Advocate General is that the disciplinary proceedings were initiated as against five Delinquent Officers including the writ petitioner. One of the Delinquent Officer was a Municipal Commissioner of Panruti Municipality against whom disciplinary proceeds were initiated under Rule 17(b) of the Tamil Nadu Civil Services [Discipline and Appeal] Rules 1955. Insofar as the other Delinquent Officers are concerned, the charge was under Rule 8(2) of the Tamil Nadu Municipal Services [Discipline and Appeal] Rules, 1970. Since the appointing authority of the Municipal Commissioner is the Government, the procedure as contemplated under Rule 9(A) of the Tamil Nadu Civil Services [Discipline and Appeal] Rules 1955, was strictly followed. This rule specifically states that when more than one Government servant of the same department are jointly involved or whose cases are interconnected, the Competent Authority to institute disciplinary proceedings shall be the immediate higher authority in that department in respect of the Government servant who holds the higher post amongst such Government servants and the disciplinary proceedings against all of them shall be taken together. In view of the same, the disciplinary proceedings was conducted by the Government as against all the delinquent officers including the petitioner. The learned Additional Advocate General therefore submitted that paragraph 16 of the order passed in WP.No.2872 of 2023, dated 22.10.2024, requires review.



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5.The second ground that was raised by the learned Additional Advocate General is that this Court had proceeded on the premise that the punishment imposed against the writ petitioner of stoppage of increment for two years with cumulative effect is a major penalty and whereas, under Rule 3(2) of the Tamil Nadu Municipal Services [Discipline and Appeal] Rules, 1970, the same is brought under minor penalty. Therefore, the finding rendered at paragraph 17 of the order requires review.

6.The third ground that was raised by the learned Additional Advocate General is that this Court had rendered a finding as if the original authority and the appellate authority are one and the same and the Government has adorned the role of disciplinary authority and the appellate authority and therefore this Court interfered with the proceedings on this ground also. The learned Additional Advocate General pointed out to Rule 14 of the Municipal Service Rules Proviso to Rule 14 of the Municipal service rules states that where the appellate authority who has passed the original order imposing the penalty happens to be the State Government, the person aggrieved by the order can again appeal to the State Government to reconsider the order. Thus, this rule contemplates a situation where the same State Government can be the authority passing the original order as well as dealing with the appeal and passing orders in the appeal.



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7.In reply to the above submissions, the learned counsel for the writ petitioner submitted that Rule 9A will not apply to the facts of the present case.

The learned counsel submitted that the said rule will apply only where all the delinquent officers are Government servants and whereas, in the case in hand, except the first delinquent officer, all the other delinquent officers were employees of the Municipal Corporation who are governed by the Municipal Services [Discipline and Appeal] Rules 1970. Therefore, Rule 9A will not come to the aid of the review applicants.

8.Insofar as the second ground is concerned, the learned counsel for the writ petitioner placed reliance upon the judgment of the Apex Court in **Kulwant Singh Gill .v. State of Punjab** reported in **1991 SCC Suppl (1) 504** and para 4 of the judgment is extracted hereunder:

4.Withholding of increments of pay simpliciter undoubtedly is a minor penalty within the meaning of Rule 5(iv). But sub-rule (v) postulates reduction to a lower stage in the time scale of pay for a specified period with further directions as to whether or not the government employee shall earn increments of pay during the period of such reductions and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments of his pay. It is an independent head of penalty and it could be imposed as punishment in an appropriate case. It is one of the major penalties. The impugned order of stoppage of two increments with cumulative effect whether would fall within the meaning of Rule 5(v)? If it so falls Rules 8 and 9 of the Rules require



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conducting of regular enquiry. The contention of Shri Nayar, learned counsel for the State is that withholding two increments with cumulative effect is only a minor penalty as it does not amount to reduction to a lower stage in the time scale of pay. We find it extremely difficult to countenance the contention. Withholding of increments of pay simpliciter without any hedge over it certainly comes within the meaning of Rule 5(iv) of the Rules. But when penalty was imposed withholding two increments i.e. for two years with cumulative effect, it would indisputably mean that the two increments earned by the employee was cut off as a measure of penalty for ever in his upward march of earning higher scale of pay. In other words the clock is put back to a lower stage in the time scale of pay and on expiry of two years the clock starts working from that stage afresh. The insidious effect of the impugned order, by necessary implication, is that the appellant employee is reduced in his time scale by two places and it is in perpetuity during the rest of the tenure of his service with a direction that two years' increments would not be counted in his time scale of pay as a measure of penalty. The words are the skin to the language which if peeled off its true colour or its resultant effects would become apparent. When we broach the problem from this perspective the effect is as envisaged under Rule 5(v) of the Rules. It is undoubted that the Division Bench in *Sarwan Singh v. State of Punjab* [ILR (1985) 2 P&H 193 : (1985) 1 SLJ 513 (P&H)] , P.C. Jain, A.C.J. speaking for the Division Bench, while considering similar question, in paragraph 8 held that the stoppage of increments with cumulative effect, by no stretch of imagination falls within clause (v) of Rule 5 or in Rule 4.12 of Punjab Civil Services Rules. It was further held that under clause (v) of Rule 5 there has to be a reduction to a lower stage in the time scale of pay by the competent authority as a measure of penalty and the period for



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which such a reduction is to be effective has to be stated and on restoration it has further to be specified whether the reduction shall operate to postpone the future increments of his pay. In such cases withholding of the increments without cumulative effect does not at all arise. In case where the increments are withheld with or without cumulative effect the government employee is never reduced to a lower stage of time scale of pay. Accordingly it was held that clause (iv) of Rule 5 is applicable to the facts of that case. With respect we are unable to agree with the High Court. If the literal interpretation is adopted the learned Judges may be right to arrive at that conclusion. But if the effect is kept at the back of the mind, it would always be so, the result will be the conclusion as we have arrived at. If the reasoning of the High Court is given acceptance, it would empower the disciplinary authority to impose, under the garb of stoppage of increments, (*sic* stoppage) of earning future increments in the time scale of pay even permanently without expressly stating so. This preposterous consequence cannot be permitted to be permeated. Rule 5(iv) does not empower the disciplinary authority to impose penalty of withholding increments of pay with cumulative effect except after holding inquiry and following the prescribed procedure. Then the order would be without jurisdiction or authority of law, and it would be per se void. Considering from this angle we have no hesitation to hold that the impugned order would come within the meaning of Rule 5(v) of the Rules; it is a major penalty and imposition of the impugned penalty without enquiry is per se illegal.

9.The learned counsel by relying upon the judgment submitted that the stoppage of increments for 2 years with cumulative effect is certainly a major penalty and Rule 3(2) which was relied upon by the learned Additional



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Advocate General only speaks about withholding of increments and it is silent about whether it is with cumulative effect or without cumulative effect.

10.Insofar as the third ground is concerned, the learned counsel for the writ petitioner submitted that when the representation was made by the petitioner seeking for the review of the order passed, none of the grounds was raised by the petitioner was considered and no reasons were assigned and therefore the order passed by the disciplinary authority and the order passed by the Government confirming the same required the interference of this Court considering the fact that a major penalty was involved in this case.

11.This Court has carefully considered the submissions made on either side and the materials available on record.

12.When dealing with a review application, the Court must only see as to whether the order suffers from an error apparent on the face of the order. In the name of review, the Court cannot rehear the matter and reappreciate the facts and come up with a new finding.

13.The issues that have been raised in this review application can be dealt with by first considering the nature of punishment that was imposed against the writ petitioner. The writ petitioner was imposed with a punishment



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of stoppage of increment for two years with cumulative effect. The learned Additional advocate General by relying upon Rule 3 submitted that such stoppage of increment is only a minor penalty. This submission of the learned Additional Advocate General can hold water if such stoppage of increment was without cumulative effect. However, when it has been given cumulative effect for two years, the implication of such a punishment will be that the delinquent employee will be reduced in his time scale by two places and it will act in perpetuity during the rest of tenure of his service. That is the reason why the Apex Court in the judgment in Kulwant Singh Gill case referred supra has concluded that such a punishment is certainly a major penalty.

14.I concur with the submission of the learned counsel for the writ petitioner that the penalty that was imposed against the writ petitioner of stoppage of increment for two years with cumulative effect, is certainly a major penalty.

15.In the light of the above finding, the other two issues raised in the review application has to be dealt with by this Court.

16.It is submitted that since one of the delinquent officer was a Municipal Commissioner and the Government is the appointing authority, all the delinquent officers will have to be dealt with together by the same disciplinary



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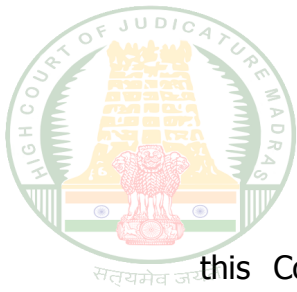
authority which happens to be the Government.

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17.The above ground need not detain this Court too long to find the answer since even assuming that the Government is the disciplinary authority, the penalty imposed is a major penalty and the disciplinary authority is expected to give the reasons for differing with the enquiring officer and record reasons in the order. This Court has rendered a finding in the writ petition that there are absolutely no reasons assigned while imposing the major penalty against the petitioner. Therefore, this finding will not in any way get altered just because the Government also happens to be the disciplinary authority in this case.

18.The above reasoning will equally apply to the third ground that was raised on the side of the review applicants. Considering the fact that a major penalty was imposed against the writ petitioner, that does not in any way take away the duty assigned on the part of the disciplinary authority to assign proper reasons more particularly since the disciplinary authority was completely differing from the finding of the enquiry officer.

19.In the light of the above discussion, this Court does not find any ground to review the order passed in the writ petition and accordingly, this review application stands dismissed. Even while allowing the writ petition,



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this Court did not foreclose the review applicants from instituting fresh proceedings. This Court had only held that in the absence of instituting any fresh proceedings against the writ petitioner, all the attendant benefits, both the monetary and service benefits, must be extended to the petitioner. The said direction issued by this Court shall be strictly complied with.

20.The writ petitioner has been suffering the punishment from the year 2021 onwards and therefore, if at all the review applicants wants to continue with the disciplinary proceedings, it will start from the stage of the report of the enquiry officer who found that none of the charges were proved. The entire proceedings shall be concluded within a period of eight weeks from the date of receipt of copy of this order.

21.In the result, this review application is dismissed. No costs.

04.09.2025

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No
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N.ANAND VENKATESH, J.



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To

Mrs.N.Lakshmi
W/o.Desingu
Accountant
Panruti Municipality
Panruti, Cuddalore District
Residing at No.8, Neelambari Street
Vallalar Nagar, Villupuram-605 602.

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