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W.P.No.32810 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2025

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THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

W.P.No.32810 of 2024

M.S.Selvi

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Highways and Minor Ports Department,
Fort St.George,
Chennai – 09.

2. Director General, Highways Department,
Integrated Chief Engineer Office Campus,
Guindy, Chennai – 25.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorari, calling for the proceedings of the first
respondent, in G.O. (D) No.62, dated 24.07.2024, and quash the same.

For Petitioner

: Mr.S.R.Rajagopal,
Senior Advocate
for Mr.S.Praveennath

For Respondents

: Mr.Abishek Murthy,



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Government Advocate

ORDER

The instant writ petition has been filed challenging the proceedings in G.O. (D) No.62, Highways and Minor Ports (HL1) Department, dated 24.07.2024 passed by the first respondent.

2. The learned Senior Counsel appearing for the petitioner would submit that while the petitioner was serving as Superintendent Engineer, she was served with a charge memorandum on 29.09.2021, and in pursuance thereof, after getting the defence statement, the Disciplinary Authority appointed an Enquiry Officer, and he filed a report on 10.08.2022. It is the submission of the learned Senior Counsel that despite the absence of proof of the first charge, the Disciplinary Authority has arrived at its own conclusion contrary to the finding of the Enquiry Officer. It is the further submission of the learned Senior Counsel that the entire findings of the Enquiry Officer are based on assumption and presumption, and there is no imputation of malafide on the part of the petitioner. He would further submit that the petitioner had an unblemished service record for a period of 33 years, and on the basis of flimsy grounds, and the pendency of the proceedings, her promotion to the



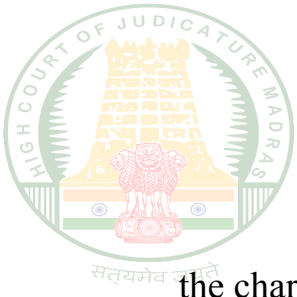
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post of Chief Engineer was overlooked. Hence, he prayed to interfere with the impugned order.

3. Per contra, the learned Government Advocate appearing for the respondents would vehemently contend that the judicial review against the disciplinary proceeding is very limited and that the finding rendered by the Enquiry Officer was correctly appreciated by the Disciplinary Authority, taking into consideration of the gravity of charge and overall circumstances of the issue, a lenient punishment of stoppage of increment for a period of one year with cumulative effect was imposed. It is the further submission of the learned Government Advocate that unless the punishment is shockingly disproportionate, this Court, while exercising the power of judicial review, cannot interfere with the same.

4. I have given my anxious consideration to the submissions made on either side.

5. While looking at the factual position, the petitioner was issued with



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the charge memorandum on 29.09.2021 with following charges:-

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Charge-1:

That the said Tmt.M.S.Selvi, formerly Superintending Engineer, National Highways, Tirunelveli now Superintending Engineer (H), NABARD and Rural Roads, Tirunelveli circle while working as Superintending Engineer, National Highways, Tirunelveli during the period 25.06.2018 to 21.01.2019 has invited Tender for 5 works under Central Road Fund Scheme vide Tender Notice No.02/2018-2019/HDO dated 25.06.2018.

The Contractor Thiru.M.Murugan has filed tender for 3 works in response to the above tender notice. The Tender opening date was postponed from 02.08.2018 to 09.08.2018, again to 11.08.2018, further to 13.08.2018 and tender was finally opened on 20.08.2018.

Tmt.M.S.Selvi, Superintending Engineer, National Highways, Tirunelveli along with a contractor Thiru.A.Kamaraj went to the house of the contractor Thiru.M.Murugan on 07.08.2018 during tender is under progress. Thus committed misconduct as responsible officer.

Charge-2:



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That during the aforesaid period while functioning in the aforesaid office, the said Tmt.M.S.Selvi, Superintending Engineer, National Highways, Tirunelveli along with Tr.M.Murugan, Divisional Engineer went to Sri.Vel Murugan Tractor show room owned by Thiru.M.Madasamy S/o.Thiru.M.Murugan, Contractor on 09.08.2018 for a tiny matter of receiving phone number of the contractor to enquire about a petition against Thiru.M.Murugan, Contractor during the tender is under progress. Thus committed misconduct as responsible officer.

Charge-3:

That she has failed to maintain absolute integrity and devotion to duty and thus violated rule 20(1) Tamil Nadu Government Servants' Conduct Rules 1973."

6. The Enquiry Officer in his report has arrived at a conclusion that the meeting of the petitioner with the contractor was coincidental and it was just a simple act of courtesy on both sides, and ultimately held that the first charge is not proved. Coming to the second charge, viz., visiting the tractor showroom owned by one Thiru.M.Madasamy, the Enquiry Officer found that the petitioner had not gone to the contractor's showroom, whereas it was the driver who went there to get a phone number. Based on such findings, the Enquiry Officer again found that the second charge is not proved. However,



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the Disciplinary Authority not agreeing with the Enquiry Officer's report seems to have taken a different view holding that all the charges are proved.

7. The Disciplinary Authority, while deviating from the finding of the Enquiry Officer, recorded that, when the visit of the petitioner to Murugan's house, is proved, the Enquiry Officer cannot hold that the charge was not proved on the ground that such visit is a matter of courtesy. It is further observed by the disciplinary authority that when the tender process is pending and sub-judice, it was not expected from the petitioner, who is the Senior Officer in the cadre of Superintending Engineer, to visit the bidders' residence.

8. Coming to the second charge, the findings of the Enquiry Officer are based on the evidence, and he has arrived at categorical findings that on the date, though the petitioner did not go to the tractor showroom, it was on her instructions the driver went to the tractor showroom. The Enquiry Officer reached the said findings based on the explanation given by the petitioner herself. Therefore, the disciplinary authority based on the above reasoning hold that the charges are proved.



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9. It is a well-settled principle of law that the power of judicial review is very much limited and can be exercised with great care and caution. Judicial review is not like an appellate remedy to re-appreciate the evidence; this Court would like to refer to the following judgements:-

(i) ***B.C.Chaturvedi Vs. Union of India*** reported in (1995) 6 SCC 749

(ii) ***Deputy General Manager (Appellate Authority) Vs. Ajai Kumar Srivastava*** reported in (2021) 2 SCC 61.

(iii) ***The Indian Oil Corporation & Ors., Vs. Ajit Kumar Singh & Anr.***, reported in 2023 LiveLaw (SC) 478.

Through the above judgements, the following principles are emerging:-

(i) Power of Judicial review is not like an appeal. But such power is meant to ensure that the individual receives fair treatment and the compliance of natural justice.

(ii) The power of judicial review is not like a appellate remedy to substitute its own finding, unless the findings of the Original Authority and Appellate Authority is perverse and without evidence.

(iii) The High Court had no jurisdiction to review the



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penalty, unless the same is shockingly disproportionate.

(iv) The mere possibility to arrive at yet another finding, cannot be a reason to substitute the finding of the disciplinary Authority.

(v) The judicial review is meant only to ensure fairness in treatment and not to ensure fairness of conclusion.

(vi) While exercising the power of judicial review, so long as there is some evidence to support the conclusion arrived at by the original authority, the same has to be sustained.

According to the above ratio, what this Court can do in judicial review is determine whether the enquiry was conducted by following the principles of natural justice, whether the findings are based on available evidence, and whether the findings are perverse.

10. Here, the case of the petitioner is not based on the ground of not following the principles of natural justice, but only on the ground that the



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charges are trivial in nature, however, she was imposed with a punishment.

While looking at the Disciplinary Authority's order, his finding is based on the available material, and as held in the above precedent, the mere possibility of taking a different conclusion cannot be a reason to interfere with the plausible findings. Furthermore, taking into consideration of the gravity of the charge, this Court does not find imposition of any shockingly disproportionate punishment. Accordingly, this Court does not find any merit in this writ petition.

11. In the result, this Writ Petition is dismissed. No costs.

16.07.2025

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Index : Yes/No

Speaking order /Non Speaking Order

Neutral Citation : Yes/No



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C.KUMARAPPAN, J.

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To

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Highways and Minor Ports Department,
Fort St.George,
Chennai – 09.
2. The Director General, Highways Department,
Integrated Chief Engineer Office Campus,
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