

THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.03.2025

PRONOUNCED ON : 28.03.2025

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CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

W.P.No.5557 of 2025

K.Periyasamy

...

Petitioner

versus

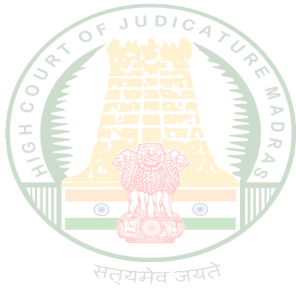
1.The Registrar General,
High Court of Madras,
Chennai - 600 104.

2.The Principal District Judge
/ Disciplinary Authority,
Namakkal.

...

Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, prayer for issuance of certiorarified mandamus, calling for the records relating to the order of the second respondent in Proceedings in Roc.No.3986/A/2022 (D.P.No.05/2022) dated 11.01.2023 to quash the same and to issue consequential directions to grant selection grade to the petitioner in the post of Junior Assistant, to re-fix his pay in the Selection Grade and to restore the petitioner's pay which he was drawing one year prior to 31.12.2022 and grant pensionary benefits.



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W.P.No.5557 of 2023



For Petitioner : Mr.P.Veeraraghavan
For Respondents : Mr.Kaithamalai Kumaran
Standing Counsel

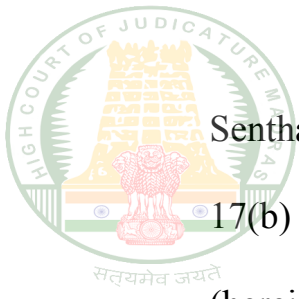
ORDER

(Order of the Court was made by **G.ARUL MURUGAN, J.**)

Writ petition has been filed challenging the order dated 11.01.2023 imposing punishment of reduction of time scale of pay by one stage and further to grant selection grade scale of pay to the petitioner in the post of Junior Assistant.

2. It is the case of the petitioner that he was originally appointed as an Office Assistant on 06.07.2000 and was thereafter promoted as Senior Bailiff in the cadre of Junior Assistant on 06.02.2012. Subsequently, he was appointed as a Junior Assistant with effect from 01.04.2015. As he has completed 10 years of service in the post of Junior Assistant, he is entitled to the selection grade in the post of Junior Assistant with effect from 06.02.2012. The petitioner retired from service on 31.01.2023, upon attaining the age of superannuation.

3. On the allegation that there were certain lapses while he was working as a Junior Assistant in the District Munsif Court,



Senthamangalam, a charge memo was issued on 23.10.2021 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, 1955 (hereinafter referred to as 'Rules'), framing the following two charges:

CHARGE -1.

You, Thiru.K.Periyasamy, Junior Assistant during your tenure in this court for the period from 18.07.2020 to 07.08.2021, you were directed to verify the suit register written by Tmt.R.Ranjitha, Record Clerk of this court granting 10 days of time for the same vide this Office Order No.5/2020, dt.27.11.2020 and despite which, directions were issued to you to attend the same in your running note file. Further, oral instructions was issued by the Head Clerk of this court, inspite of which, you failed to attend the above work entrusted to you, which shows your insubordination towards your Superiors, lethargic attitude, gross negligence and dereliction of duty in your official work. Being a Junior Assistant it is your bounden duty and responsibility for the proper maintenance of registers and records under your custody and your act amounts to unbecoming of a Government servant and thus violated Rule 20 of the TNGSC Rules.

CHARGE-2:-

You, Thiru.K.Periyasamy, Junior Assistant during your tenure in this court for the period from 18.07.2020 to 07.08.2021, you were entrusted to attend the duties in the Copyist Section of this court along with writing of running index, maintenance of Suit Registers and C.R.19 register of this court. Whiles, the entire case records in O.S.No.7/2020 on the file of this court which was disposed on 24.02.2021 was handed over to you by the Typist of this court for



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indexing. you failed to attend the said work and in which Patta dt.21.12.1975 was found missing in that case bundle and you have failed to trace out the same, which shows your lethargic attitude, gross negligence and dereliction of duty in your official capacity which amounts to unbecoming of a Government servant and thus violated Rule 20 of the TNGSC Rules.”

4. The petitioner had submitted his reply on 02.12.2021 and not satisfied with the explanation, an enquiry officer was appointed on 08.06.2022. After enquiry, the enquiry officer has submitted his report on 15.12.2022. A second show cause notice dated 20.12.2022 was issued to the petitioner, for which the petitioner offered his reply on 04.01.2023. On considering the said reply, the disciplinary authority concurred with the findings of the enquiry officer and imposed punishment of reduction of pay scale by one stage till the date of his retirement with cumulative effect.

5. Assailing the said punishment and for consequential relief, the petitioner had preferred this writ petition.

6. Mr.P.Veeraraghavan, learned counsel for the petitioner, contended that the first charge is only in respect of insubordination and when the second charge was held to be not proved, the punishment imposed is too



harsh and not proportionate to the charges. The learned counsel further submitted that the punishment of reduction in the pay scale till retirement, without specifying the period, is not in consonance with Fundamental Rule 29 and also the Government's letter dated 21.05.2002 wherein, it was instructed that wherever the punishment of reduction in pay scale is imposed, it cannot be for an unspecified period, as it is not permissible under relevant rules.

7. Per contra, Mr.Kaithamalai Kumaran, learned Standing Counsel appearing for the respondents, contended that the first charge relates to insubordination, lethargic attitude, gross negligence and dereliction of duty which is also a serious charge and in view of charge being proved, the disciplinary authority, who is the competent authority, had imposed the appropriate punishment of reduction in the pay scale, even though a higher punishment could also have been imposed.

8. He further contended that since the petitioner was to retire from service, the punishment of reduction in pay scale was imposed till the date of retirement, therefore, eventually it only relates to that period. It is his further contention that once the enquiry is found to be proper, it is for the disciplinary authority to decide the punishment. This Court, exercising



power under Article 226 of the Constitution of India, cannot substitute the punishment, as it is within the domain of the disciplinary authority, unless the punishment imposed shocks the conscience of the Court.

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9. Heard the rival submissions of the respective counsels and perused the materials available on record.

10. The petitioner, while working as a Junior Assistant in the newly created District Munsif Court, Senthamangalam, was issued a charge memo under Rule 17(b), framing the aforesaid two charges. Upon receiving the reply and being not satisfied with the explanation, the disciplinary authority appointed an enquiry officer on 08.06.2022. During the enquiry, the department examined PW1 and PW2 and marked documents Exhibits P1 to P8. The delinquent did not examine any witnesses or mark any documents. After considering the evidence, the enquiry officer submitted his report on 15.12.2022, holding that the first charge alone was proved, while the second charge was not proved. A second show cause notice was issued to the petitioner on 20.12.2022, and on receipt of his reply on 04.01.2023, the disciplinary authority concurred with the findings of the enquiry officer and imposed the punishment of reduction in pay scale by one stage until the date



of his retirement, with cumulative effect.

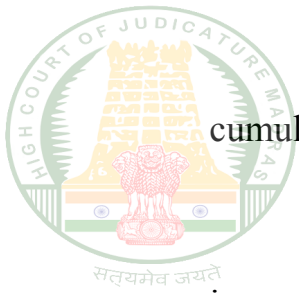
11. There is nothing pointed out in respect of the flaw in enquiry conducted and it could be seen that the enquiry has been conducted in a proper and fair manner by affording reasonable opportunity to the petitioner. It is the contention of the petitioner that only the second charge, which was serious, was held not proved. The first charge was only in respect of not carrying out the entries in the suit registers in a specified time, which is only a minor lapse and for which the punishment of reduction in pay scale is too harsh and disproportionate to the charge. We are unable to accept the contention of the learned counsel for the petitioner in this regard, as the first charge pertains to insubordination, lethargic attitude, gross negligence and dereliction of duty in official work.

12. When the petitioner is attached with the judicial department, where the rights of several litigants in respect of properties and other issues are involved, he is expected to carry out duties in proper and timely manner. When, inspite of the instructions from the District Munsif and also after two memos came to be issued on 26.08.2021, the petitioner has not carried out his duties, it amounts to clear case of insubordination, gross negligence and dereliction of duty. Insubordination in the courts cannot be accepted, as the



entire work in the judicial system will get affected, if the duties by the concerned persons are not carried out in a proper and timely manner. From the evidence, it has been held that the first charge has been proved. For the proven charge under Rule 17(b) of the Rules, though a severe punishment could have been imposed, the disciplinary authority had taken a lenient view and imposed a punishment of reduction in time scale of pay, which is not so harsh that shocks the conscience of this Court, but rather proportionate to the charge.

13. However, we find force in the submissions of the learned counsel for the petitioner in respect of the punishment of reduction in time scale of pay without mentioning the period, especially with cumulative effect. In the impugned order, the disciplinary authority had recorded that the delinquent deserves a minor punishment for his lethargic attitude and irresponsible activities and relying on the procedure in Chapter-V, Part-IV, of Handbook of Disciplinary Procedures which states that the “*penalty of withholding of increments shall not be imposed on a person when no increments are to be earned by such person before the date of superannuation*”. Since the petitioner was to retire from service on 31.01.2023, the punishment of reduction in time scale of pay by one stage till the date of retirement, with



cumulative effect, was imposed.

14. Considering the finding recorded by the disciplinary authority to impose a minor punishment of cut in increment and the resultant punishment imposed in reduction in pay scale with cumulative effect that will have adverse effect on his terminal benefits and also in pension, we feel it appropriate to modify this punishment for a specific period without any adverse effect on his pension.

15. In such circumstances, the punishment imposed by the disciplinary authority is modified to that of *reduction in the time scale of pay by one stage for one year, without cumulative effect, not affecting his pension*. In view of the petitioner's retirement, if the punishment cannot be given affect to, then the monetary value can be calculated and withheld from the emoluments to be paid as per proviso to Rule 8(iv) of the Rules.

16. With the above modification in the punishment imposed, the writ petition is disposed of. No costs.

(R.S.M., J.) (G.A.M., J.)
28.03.2025

Speaking order
Index : Yes



Neutral Citation : Yes
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W.P.No.5557 of 2019



To
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High Court of Madras,
Chennai - 600 104.
- 2.The Principal District Judge
/ Disciplinary Authority,
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R.SUBRAMANIAN, J.
and
G.ARUL MURUGAN, J.

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Pre-Delivery Order made in
W.P.No.5557 of 2025

28.03.2025