



WEB COPY



W.A No. 216 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-04-2025

CORAM

THE HONOURABLE MR JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A No. 216 of 2023 AND

CMP NO. 2191 OF 2023

1. The Commissioner of Municipal Administration
Chepauk, Chennai 5.
2. The Principal Secretary to Government
Municipal Administration and Water Supply (NT1)
Department, Fort St George, Chennai 9.
3. The Regional Director of Municipal Administration
Vellore-12

... Appellants

Vs

R.Partheeban
S/o Ranganathan, Assistant, Nagapattinam
Municipality, Nagapattinam District.

... Respondents

PRAYER

Writ Appeal under Clause 15 of the Letters Patent to set aside the order dated 08.02.2022 made in WP No.277/2015.

For Appellants : Mr. R. Kumaravel, Addl.
Government Pleader

For Respondent : Mr. K. Venkataramani, Senior Counsel For
M. Muthappan



W.A No. 216 of 2023

JUDGMENT

WEB COPY (Judgment of the Court was delivered by R.Suresh Kumar J.)

This intra Court appeal had been directed against the order passed by the Writ Court dated 08.02.2022 made in W.P.No.277 of 2015.

2. The respondent herein was appointed as Junior Assistant on 09.01.1984 at the appellant Department and was further promoted as Assistant in the year 2002. In the year 2010 ie., in the year 2009-10, his name should have been included in the panel fit for promotion to Class-IV Officer / Manager / Accountant. However, at that time on 08.03.2010, a charge memo had been issued under Rule 8(2) of the Tamil Nadu Municipal Employees General Services Rules.

3. Five charges were framed against the writ petitioner. Enquiry Officer was appointed, however no documents have been marked and no witnesses have been produced. Straight away the enquiry officer turned to be a prosecutor and has cross examined the delinquent / writ petitioner and recorded his answer. Thereafter, a report was submitted holding that the charges 1 to 3 were proved and charges 4



W.A No. 216 of 2023

WEB COPY

and 5 not proved. When an explanation was given by the writ petitioner on 25.08.2012, he has pointed out that it is a flawed enquiry as the enquiry officer turned to be a prosecutor and he has asked some cross questions to the delinquent and recorded his finding without even conducting proper enquiry by taking oral or documentary evidence.

4. Despite this objection having been raised by the delinquent / writ petitioner, the disciplinary authority has decided to impose the punishment of stoppage of increment for one year without cumulative effect. On appeal, it was confirmed and a review also has been filed, that also was rejected. Therefore, the punishment has been confirmed.

5. As against these orders, the said writ petition was filed. The learned Writ Court, having heard the learned counsel for both sides, has found that the very disciplinary proceedings ie., the enquiry conducted in this regard against the delinquent was completely flawed, the reason being that, the procedure to be followed in conducting such kind of enquiry has not been followed and no evidence



W.A No. 216 of 2023

WEB COPY

was recorded in support of the prosecution to show that the charge memo issued against the delinquent has been proved. Mere asking some cross questions by the enquiry officer himself against the delinquent and recording the same would vitiate the entire proceedings. Therefore, based on such flawed enquiry if the enquiry officer has given a report saying that the charges 1 to 3 were proved, that cannot be taken into account by the disciplinary authority.

6. In this context, even though the delinquent / writ petitioner, while giving the defence statement / explanation to the disciplinary authority pointed out the flaw occurred in the enquiry, that has not been taken into account by the disciplinary authority and he has imposed the punishment.

7. All these aspects cumulatively having been considered would go to show that the enquiry was not properly conducted and based on such flawed enquiry, the disciplinary authority ought not to have imposed the punishment. When this has been pointed out before the appellate authority as well as the revisional authority, they have also rejected the appeal as well as review mechanically. That shows the



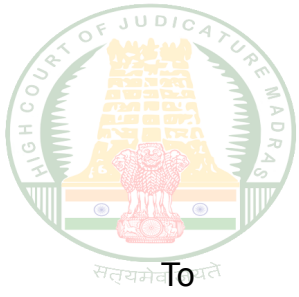
W.A No. 216 of 2023

non application of mind and that was also found out by the learned Judge in the
WEB COPY
impugned order.

8. We have gone through the impugned order of the Writ Court and we do not find any error in the approach of the learned Judge in coming to such a conclusion that the order of punishment imposed against the writ petitioner / delinquent has to be set aside. Therefore, there is absolutely no reason to interfere with the impugned order passed by the learned Writ Court. In this regard, the attempt made by the learned Additional Government Pleader to assail the order impugned successfully has to be rejected and the impugned order since has to be sustained, accordingly it is sustained. The Writ Appeal deserves to be dismissed and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.SURESH KUMAR J.) (A.D.MARIA CLETE J.)
07-04-2025

Index:Yes/No
Speaking/Non-speaking order
Neutral Citation:Yes/No
KST



W.A No. 216 of 2023

WEB COPY

1. The Commissioner of Municipal Administration
Chepauk, Chennai 5.
2. The Principal Secretary to Government
Municipal Administration and Water Supply (NT1)
Department, Fort St George, Chennai 9.
3. The Regional Director of Municipal Administration
Vellore-12



WEB COPY



W.A No. 216 of 2023

R.SURESH KUMAR J.
AND
A.D.MARIA CLETE J.

KST

W.A No. 216 of 2023

07-04-2025