



W.A.No.222 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 07.04.2025

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.A.No.222 of 2023
and
C.M.P.No.2323 of 2023**

1. The Secretary to Government,
Revenue [Service 7(1)] Department,
Fort St.George, Chennai - 600 009.
 2. The Commissioner of Revenue Administration,
Chepauk, Chennai - 5.
 3. The District Collector,
Salem, Salem District.
 4. The District Revenue Officer,
Collectorate, Salem - 636 001.
 5. The Revenue Divisional Officer,
Mettur Taluk, Salem District.
 6. The Tahsildar,
Mettur Taluk, Salem District.
- ... Appellants

-Vs-

K.Manickam ... Respondent

PRAYER : Appeal under Clause XV of Letters Patent against the order dated



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31.03.2022 made in W.P.No.989 of 2015.

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For Appellants : Mr.M.Alagu Gowtham
Government Advocate

For Respondent : Mr.Elango

J U D G M E N T

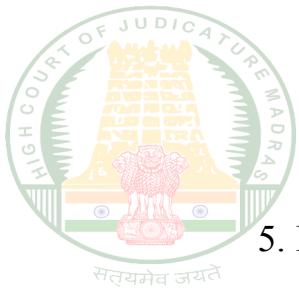
(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This intra Court appeal has been directed against the order dated 31.03.2022 made in W.P.No.989 of 2015.

2. The respondent, who was the writ petitioner, was working as a Village Administrative Officer, before his superannuation, disciplinary proceedings had been initiated against him by issuing a charge memo dated 29.06.2010.

3. The charge against the Village Administrative Officer was that he had tampered the records by altering the village records by classifying the Poramboke land into a house site.

4. Pursuant to the charge memo, an Enquiry Officer was appointed, enquiry was conducted and the Enquiry Officer has given a report stating that the charge framed against him has been proved.



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5. Pursuant to the Enquiry Officer's report, the Disciplinary Authority has imposed the punishment of dismissal from service against the respondent / writ petitioner through an order dated 26.05.2011, that was appealed to the Appellate Authority which came to be dismissed on 10.08.2012. Subsequently, the respondent / writ petitioner preferred an appeal to the first appellant, i.e., Government who had also rejected the appeal by issuance of G.O.(ID) No.467, Revenue Estab.7(1) Department dated 12.12.2013.

6. Therefore, aggrieved over the order of punishment of dismissal from service confirmed by the Appellate Authority, the writ petitioner moved the said writ petition.

7. The writ Court has considered the said case, where the learned Judge found that during the enquiry proceedings, though two witnesses have been named, they have not been examined. The Enquiry Officer has concluded only by verifying the documents produced before him as if that the records have been tampered by converting the Poramboke land into house site.

8. In this context, it is to be noted that, even though such findings had



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been given by the Enquiry Officer, on what basis, such finding had been given, if it is asked, the answer would be, based on the document produced before him.

9. In this context, it is further to be noted that there might have been tampering of records, but who was responsible for such tampering whether the delinquent or any other predecessor or any other person in the Revenue Department. These kind of things can be proved only by corroborating the documentary evidence by way of oral evidence which even though had been named, however had not been examined.

10. This fundamental flaw in the enquiry has been found by the learned Judge and he has applied the principle in this regard enunciated by the Hon'ble Supreme Court in the matter of ***A.Savariar Vs. The Secretary, Tamil Nadu Public Service Commissioner and another*** in ***Civil Appeal Nos.1078 and 1079 of 2013 dated 15.12.2013*** and extracted the said judgment and ultimately found that, when a department relies on any document in the course of an enquiry, the content thereof would require to be proved by way of examination of proper witness.

11. The learned Judge has also held that a mere production of documents



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will not suffice, while that being so, in the case in hand, the delinquent had produced the village records and the Enquiry Officer, on perusal of the same, had come to the conclusion that such alteration in the entries in the village record was made by the petitioner, however it was not based on the statements of a witness.

12. Therefore, the learned Judge has come to the conclusion that such flawed enquiry cannot be taken as a conclusive proof for accepting the report of the Enquiry Officer to award the punishment that too a maximum punishment of dismissal from service against the writ petitioner delinquent.

13. Therefore, the learned Judge has interfered with the punishment and set aside the same and the writ petition was allowed through the impugned order.

14. Though an attempt has been made by the learned Government Advocate appearing for the appellants in justifying the order of dismissal passed against the delinquent and to say that the order impugned of the writ Court is erroneous, we are not impressed with the said submission made by the leaned Government Advocate for the reasons which we have recorded herein above.



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15. As has been rightly pointed out by the learned Judge in the impugned order, the enquiry has not been conducted properly as no examination of witnesses taken place in support of the documentary evidence.

16. Assuming that there has been tampering of record, who was responsible for such tampering must have been found out by the Enquiry Officer, that attempt he has never been made, therefore it is completely a flawed enquiry. Therefore arising out of such flawed enquiry, since the report has been given, as if that the charge framed against the delinquent has been proved, that ought not to have been taken into account by the Disciplinary Authority, that too for imposing the maximum punishment of dismissal from service.

17. Therefore, there is every justification on the part of the learned Judge in allowing the writ petition, hence we do not see any reason to interfere with the impugned order.

18. Resultantly, this Writ Appeal fails and hence, it is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.



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(R.S.K., J.) (A.D.M.C., J.)
07.04.2025

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

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