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THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.03.2025

PRONOUNCED ON : 21.03.2025

CORAM:

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

**W.P.No.38800 of 2024
& W.M.P.No.42012 of 2024**

M.Velu

...

Petitioner

versus

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

2.Principal Judge / Disciplinary Authority,
The Principal District Judge,
City Civil Court,
Chennai - 600 104.

...

Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order of removal from service passed by the second respondent made in Dis No.13236/2023/E1 dated 30.11.2023 to quash the same and to consequently direct the respondent to reinstate the petitioner and to extend all service benefits.

For Petitioner : Mr.V.Meenakshi Sundaram

For Respondents : Mr.Suhrith Parthasarathy



ORDER

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

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This Writ Petition is filed challenging the order of the second respondent dated 30.11.2023 imposing the punishment of removal from service.

2. According to the petitioner, he was originally appointed as Junior Assistant in the year 2002 and was subsequently promoted as Head Clerk, NDPS Court, Chennai on 18.04.2019. The petitioner was assigned duties as Head Clerk (Property). On several allegations, including the non-remittance of the amounts collected by the petitioner in the RBI to the tune of nearly around Rs.15,00,000/-, a charge memo came to be issued on 01.09.2022.

3. The petitioner had submitted his reply on 06.10.2022 and not satisfied with the reply, an enquiry officer was appointed. Pursuant to the enquiry, the enquiry officer submitted a report on 28.04.2023, holding that the charges as against the petitioner stood proved. The second respondent / disciplinary authority concurred with the findings of the enquiry officer and had imposed the punishment of removal from service.



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4. Mr.V.Meenakshi Sundaram, learned counsel for the petitioner contended that only due to the reason of the covid pandemic, as explained by the petitioner even in the reply, the amounts received were not remitted in time and that cannot be construed as misappropriation. He further contended that separate charges were not framed and therefore the entire proceedings stand vitiated.

5. It is also his further contention that the enquiry officer, who ought to have been only made as a witness had been entrusted to enquire into the charges, which is in violation of principles of natural justice. It is also his further contention that the co-delinquent had been exonerated and had been arrayed as a witness, which is not justifiable and cannot be sustained.

6. Per contra, Mr.Suhrith Parthasarathy, learned counsel for the respondents contended that, the petitioner who was entrusted with the duty as Head Clerk (Property), though had collected money to the tune of nearly Rs.15,00,000/-, had utilised the same for his personal requirements and only after the counsel filed memos, Registers were checked and after it came to



light that the petitioner had in fact collected the amounts and only thereaf

these amounts had been remitted back after holding them for nearly more

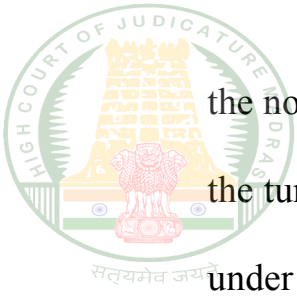
than a year and in one case nearly after two years.

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7. It is his further contention that the petitioner had participated in the enquiry proceedings and gave his no objection for the enquiry officer to conduct enquiry and after an elaborate enquiry and after considering the materials, the enquiry officer had submitted a report holding that the charges are proved. He further submitted that the disciplinary authority, having concurred with the findings, had imposed the appropriate punishment and the petitioner who had also not chosen to avail the remedy of appeal, had not made out any flaw in the enquiry and therefore the punishment imposed is justified and sought for dismissal of this writ petition.

8. Heard the rival submissions and perused the materials available on record.

9. The petitioner, while working as Head Clerk (Property) in the NDPS Court, Chennai, was entrusted with the duty of collecting fine amounts and maintenance of the records. On certain allegations in respect of



the non-remittance of the amounts collected by the petitioner into the RBI

the tune of nearly Rs.15,00,000/- on various dates, the petitioner was placed

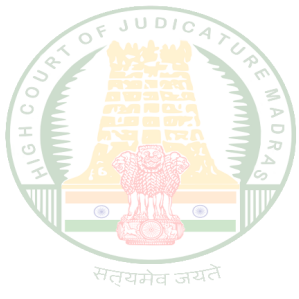
under suspension on 18.03.2022 and a charge memo came to be issued

under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal)

Rules, 1955 on 01.09.2022.

10. The detailed charge is that a sum of Rs,7,06,800/- collected on 12.08.2020 was retained for more than a year; a sum of Rs.3,14,210/- collected from 06.07.2021 to 28.07.2021 was retained for more than a month; and a sum of Rs.4,94,380/- collected from 17.06.2020 to 07.10.2021, has been retained for nearly 2 years before remitting into the RBI and also has not maintained the 'A' Register, not prepared the year-wise property list, failed to keep the remittance challans/vouchers and certain other lacunas in respect of these manipulations.

11. The petitioner had submitted his reply on 06.10.2022. The second respondent / disciplinary authority, not being satisfied with the reply, had appointed an enquiry officer to conduct the domestic enquiry. Since it was a detailed charge, the enquiry officer had segregated the charge on various heads in the following manner:-



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“I) Temporary Misappropriation of Government money without remitting into RBI (Fact admitted by the delinquent).

II) Failed to maintain A Register properly.

III) Failed to prepare Property year wise list.

IV) Failed to keep the remittance challan / voucher with case records.

V) Failed to maintain Reconciliation Register.

VI) Failed to maintain Permanent Advance Register and Witness Batta Registers.

VII) Unauthorisedly absented duty.

VIII) Insubordination.

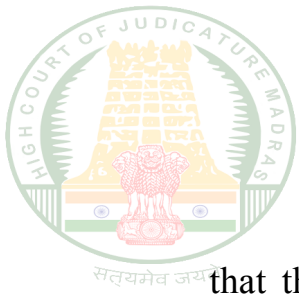
IX) Dereliction of duty.”

12. In the enquiry, P.W.1 to P.W.4 were examined on the side of the Department and the documents in Ex.P.1 to Ex.P.93 were marked. However, the delinquent had not examined any witnesses nor produced any documents. The enquiry officer on enquiry found that the petitioner had temporarily misappropriated the Government money and had not remitted it into the RBI, which fact had also been admitted by the delinquent. A finding is recorded that the Government money of Rs.7,06,800/-, Rs.3,14,210/- and Rs.4,94,380/- had been wantonly and temporarily misappropriated by the delinquent during his official tenure.



13. The enquiry officer had also found that the petitioner had made several entries in the 'A' Register for the year 2020-2021 in pencil and many entries had not been put up before the Presiding Officer for signature and thereby the delinquent failed to maintain the 'A' Register properly. It was also found that the petitioner who was the Head Clerk (Property), had not prepared the year-wise property list during his tenure, due to which the Presiding Officer was not able to take over the list of properties throughout the tenure. In spite of the instructions, the delinquent had failed to carry out the same.

14. The delinquent had also not produced the remittance challans/vouchers in respect of the payment of the fine imposed in C.C.No.62 of 2009 and the delinquent failed to prepare and submit a year-wise reconciliation statement. Apart from this, it was also found that the delinquent had not maintained the Permanent Advance Register and Witness Batta Registers. He had also unauthorisedly absented himself from duty. The enquiry officer, by considering the oral and documentary evidence, rendered a finding that the delinquent had committed the serious lapses and submitted a report on 28.04.2023 holding that the charges against the delinquent stand proved.



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15. In this regard, even though the petitioner's counsel contended that there was no specific charge, but however, on perusal of charges as explained above, the charge is in detail, containing all the irregularities committed by the petitioner in not remitting the amounts to the RBI, for which there had been several lapses in maintaining the records to facilitate the manipulation.

16. In fact, the enquiry officer had split the same into several heads as listed above and had given detailed findings in respect of each of the heads and held that the charges as against the petitioner are proved. Further it is the submission of the petitioner that the enquiry officer ought to have been made as a witness, since the amounts that were not remitted was searched for from the records in the Office in her presence.

17. In this regard, it is seen that the enquiry officer was not part of any recovery and in fact, the amount was brought in by the delinquent himself and moreover, during the enquiry, the delinquent had submitted that he had no objection for the enquiry officer to conduct the proceedings, which has also been recorded in the proceedings. While so, now the



petitioner cannot turn around and object to the same and as such, the submissions of the petitioner is rejected.

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18. The second respondent / disciplinary authority, had considered the enquiry report and concurred with the findings of the enquiry officer and by order dated 30.11.2023, imposed the punishment of removal from service and under Rule 8(vii) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, 1955. The disciplinary authority had recorded the misappropriations committed by the petitioner as submitted by the enquiry officer in the following manner:-

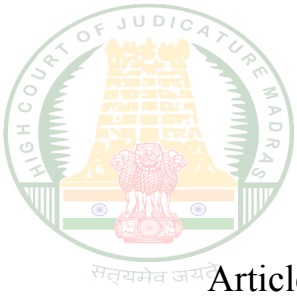
S. No.	Amount produced by the Police and received by the Court as "A" Property on	Date of knowledge	Amount Identified in Rs.	The amount handed over by the delinquent to the Court on	Amount given by the delinquent in Rs.
1	12.08.2020	02.08.2021	7,06,800/-	04.08.2021	7,06,800/-
2	06.07.2021 to 28.07.2021	04.08.2021	3,14,210/-	05.08.2021	3,14,210/-
3	17.06.2020 to 07.10.2021	16.08.2022	4,95,530/-	23.08.2022	4,94,380/- (Rs.1150/- was already remitted into RBI)



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19. The disciplinary authority having found that the petitioner had collected a sum of Rs.7,06,800/- on 12.08.2020, had utilized the money and only after the same came to the knowledge on 02.08.2021, that too after memos were filed by the concerned counsel on record, had thereafter remitted the amount on 04.08.2021. A sum of Rs.3,14,210/- had also been collected from 06.07.2021 to 28.07.2021 and after the same came to the knowledge on 04.08.2021, the delinquent had deposited on 05.08.2021.

20. Further, when a sum of Rs.4,95,530/- was collected from 17.06.2020 to 07.10.2021, the petitioner had retained the amount for nearly two years and only when the amount collected came to notice on 16.08.2022, the petitioner had remitted this amount on 23.08.2022. For the purpose of retaining these amounts, the petitioner had not maintained the 'A' Register properly and had committed all other lapses as have been discussed above. The only explanation that was offered for retaining the cash was that due to covid restrictions he had kept it in the rack, which is factually incorrect and totally unacceptable. The disciplinary authority, in view of the serious lapses committed by the petitioner, had concluded that the punishment of removal from service would be appropriate in view of the proved charges.

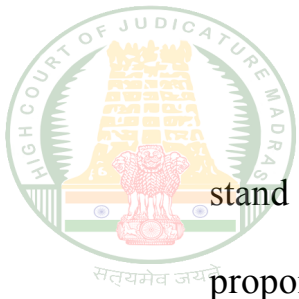


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21. This Court, while exercising the power of judicial review under Article 226 of the Constitution of India, cannot reappraise the evidence and it is only to see whether the enquiry has been conducted in a proper and fair manner.

22. As discussed above, the petitioner has been afforded with reasonable opportunities and the disciplinary proceedings have been conducted in a fair manner. When the enquiry is found to be proper, then it is for the disciplinary authority to decide on the appropriate punishment to be imposed on the delinquency.

23. When the petitioner is in the judicial service, that too performing the functions as Head Clerk (Property) in the NDPS Court, the acts of the petitioner in not maintaining the 'A' Register and all other records as indicated above and thereby having misappropriated a sum of around Rs.15,00,000/- and having retained it for nearly one to two years and only after the same was noticed, the delinquent chooses to remit the same into the RBI are serious lapses, which would undermine the court proceedings.



24. In view of the serious charges against the petitioner, who stand proved, the punishment of removal from service imposed is definitely proportionate to the charges levelled and in such circumstances, we do not find any infirmity in the punishment imposed on the delinquent.

25. In view of the same, this Writ Petition fails and it is accordingly **dismissed**. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(R.S.M., J.) (G.A.M., J.)
21.03.2025

Speaking order

Index : Yes

Neutral Citation : Yes

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To

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

2. Principal Judge / Disciplinary Authority,
The Principal District Judge,
City Civil Court,
Chennai - 600 104.



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W.P.No.38800 of 2024

R.SUBRAMANIAN,
and
G.ARUL MURUGAN, J.

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Pre-Delivery Order made in
W.P.No.38800 of 2024
& W.M.P.No.42012 of 2024

21.03.2025