

DATED: 28.11.2025

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MRS.JUSTICE K. GOVINDARAJAN THILAKAVADI

W.A.No.3611 of 2025

- Prayer: Appeal filed under Clause 15 of the Letters Patent, against the order dated 07.11.2023 made in W.P.No.11816 of 2015.

For the Respondent : Mr.A.Kumar
for Mr.K.J.Sivakumar

JUDGMENT

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

The present intra-Court appeal has been directed against the order passed by the Writ Court dated 07.11.2023 made in W.P.No.11816 of 2015.



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2. The respondent was the writ petitioner, who was working as Junior Assistant at the appellant Department, against whom, a charge memo has been issued under Rule 17b of the Tamil Nadu Civil Service (Discipline and Appeal) Rules. The sum and substance of the charge was that, he had been unauthorizedly absent for 42 days, that is from 11.04.2011 to 22.05.2011.

3. An enquiry has been conducted, where, the stand taken by the respondent/writ petitioner was that, due to illness, he could not attend duty and while he returned on 20.06.2011, he had given a medical certificate, which, though had been given, the same was not accepted and Disciplinary Proceedings were initiated, where, the delinquent also had conceded that he has been absent for 42 days and he has made a request to the employer to take a lenient view while imposing the punishment against the respondent/writ petitioner/employee.

4. Despite the said factors, the Disciplinary Authority had imposed the punishment of compulsory retirement. That was under challenge before the Writ Court. In fact, the order of punishment was dated 22.10.2014, which was under challenge in the writ



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petition filed in the year 2015 and the said writ petition was pending before this Court for eight years and was disposed on 07.11.2023 through the impugned order.

5. The learned Writ Court, having considered the nature of the charge and also the stand that has been taken by the employee to state that he had though given a medical certificate, it was not accepted, if the medical certificate would have been accepted, there would be no charge against him. Assuming it is not accepted and if it is rejected by the employer, even then, for the 42 days' absence, if it is an admitted one, the punishment now awarded, that is compulsory retirement, would be a shocking punishment, disproportionate to the proven charge, that is the admitted charge. Therefore, to that extent, when his plea was made to the employer, the same since has not been considered, the learned Judge has shown his indulgence by setting aside the order and remitted the matter back to the employer to reconsider the issue for awarding an alternate minor punishment against him.

6. As against the said order, since this appeal has been filed and in support of this appeal, though arguments were advanced by *Mr.P.Kumaresan*, learned Additional Advocate General appearing for

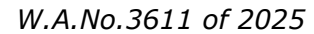


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the appellants, we are not impressed with the said arguments made by him for the simple reason that, the only nature of the charge is the unauthorized absence on the part of the employee for 42 days, for which, though medical certificate has been produced, that was not accepted. Had the medical certificate been accepted, there would have not been any charge against him. Assuming the medical certificate has not been accepted and the 42 days has been treated as unauthorized absence, even for which, when it has been accepted by the delinquent and when he made a plea for a lenient punishment, at least, that should have been considered.

7. This position, having been considered by the Writ Court, has shown its indulgence by quashing the order of punishment of compulsory retirement and remitted the matter back to the appellants to take a fresh view for awarding a minor punishment.

8. This approach of the Writ court cannot be found fault with for the simple reason that, there is no serious violation on the part of the employee insofar as the particular charge is concerned. Even though it is submitted by the learned Additional Advocate General that there are already some charges which are also pending, since it is a settled proposition that the other charges pending cannot have



11. But, at the same time, since it is only the remaining order
the directions were given to the employer to take a lenient view
giving minor punishment, that punishment also could be
imposed and accordingly, this writ appeal is disposed of with
directions to the appellant to pass necessary orders imposing minor
punishment against the respondent employee and also reinstate
him immediately within a period of four weeks from the date of
the order. A copy of this order.

12. It is made clear that the employee is not entitled for backwages for the whole period he was out of service, however, he is entitled for continuity of service and other benefits during the rest of his service and also at the time of superannuation/retirement, subject to any other Disciplinary Proceedings.

13. With these modification of the order and directions, this writ appeal is disposed of. Once the order is passed, as directed



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above, within one months' period, within one week from the date of receipt of the order, the respondent/employee shall report duty before the Authority concerned.

14. Resultantly, the writ appeal is disposed of. However, there shall be no order as to costs. Consequently, C.M.P.No.29776 of 2025 is closed.

(R.S.K., J.) (K.G.T., J)
28.11.2025

Speaking Order/Non-Speaking Order
Index:Yes/No
Internet:Yes/No
Neutral Citation:Yes/No

(drm)

To:

1. The Director General of Police
Law and Order, Chennai – 600 040.
2. The Deputy Inspector General of Police
Tiruchirapalli Range, I/c. Thanjavur Range
Tiruchirapalli.
3. The Superintendent of Police
District Police Office, Thanjavur.



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AND
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