

W.A.(MD)No.515 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE J. NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.A(MD)No.515 of 2025
and
C.M.P.(MD)No.3990 of 2025**

1.The District Collector,
Madurai District,
Madurai.

2.The District Revenue Officer,
Madurai District,
Madurai.

3.The Tahsildar,
Usilampatti Taluk,
Madurai District.

4.The Thasildar (Social Security Scheme),
Tirupparankundram,
Madurai District.

... Appellants

Vs.

P.Sekar

... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.15404 of 2022, dated 30.10.2024.



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For Appellants :Mr.S.S.Madhavan
Additional Government Pleader

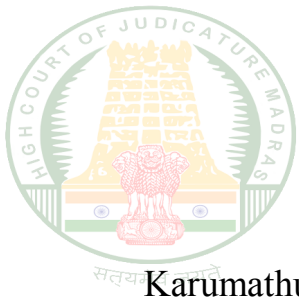
JUDGMENT

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

The writ appeal is filed by the respondents in the writ petition against the order dated 30.10.2024 passed in W.P.(MD)No.15404 of 2022.

2. The writ petition was filed for issuance of Writ of Certiorarified Mandamus to quash the charge memo, dated 02.08.2018, since the same is vitiated in view of acquittal in the criminal case on the same set of facts and charges in Special Case No.15 of 2014 on the file of Special Court for Trial of Prevention of Corruption Act Cases, Madurai, dated 30.12.2020 and consequently, to direct the 1st respondent to reinstate the petitioner with all attendant benefits.

3. The brief facts as stated in the writ petition are that the petitioner joined as Revenue Assistant on 30.12.2009 in Nilakottai Taluk in Dindigul District, then posted in Peraiyur Taluk in Madurai District on 27.09.2011 and then he was promoted as Revenue Inspector on 10.11.2012 in Karumathur, in Usilampatti Taluk and discharging unblemished services. While the petitioner was serving at



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Karumathur Office, one A.Kasimayan approached him for issuance of the destitute widow certificate for his brother's wife and stated the application was pending for more than six months. It is the case of the petitioner that the said application was given even before the petitioner joined in the particular office. Further while he joined the said Karumathur Office, there was a law & order problem relating with the temple festival at Karumathur, hence the entire Revenue and Police department were engaged in settling the issue and at that time the said Kasimayan picked up quarrel with the petitioner and developed hostile attitude against the petitioner. Then he was pacified by the village people and suddenly and unexpectedly the said Kasimayan forced the currency notes in the petitioner's hand and at that time, the anti-vigilance team caught the petitioner red-handed. Thereafter, the petitioner was arrested and suspended from service by an order dated 11.03.2013 of the first respondent and the suspension is with effect from 05.03.2013 and then a criminal case has been registered in Special Case No.15 of 2014 against him for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988, after the full-fledged Trial, the petitioner was acquitted on 30.12.2020 by the Special Court. After considering the acquittal order passed by the Criminal Court, the Writ Court has elaborately considered the contention raised by the writ petitioner and thereafter, has come to the conclusion that the

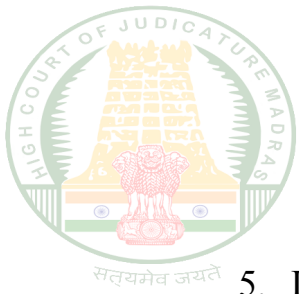


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respondents in the writ petition cannot initiate departmental proceedings, when the charge memo and the criminal case are for the same set of charges and also when the delinquent is acquitted, charge memo cannot be issued. Aggrieved over the same, the present writ appeal is preferred by the respondents in the writ petition.

4. The charge against the petitioner is that he demanded bribe, based on the complaint a criminal case was registered in Crime No.1 of 2013 and the petitioner was arrested, then enlarged on bail. Then the petitioner was suspended with effect from 05.03.2013 vide order dated 11.03.2013. After five years the appellants had initiated disciplinary proceedings vide charge memo dated 20.08.2018. The petitioner had requested not to proceed with the disciplinary proceedings since for the same set of facts two proceedings cannot be initiated. Further the documents and the witness in both the cases are more or less one and the same. The contention of the appellants is that based on the request the disciplinary proceedings were kept in abeyance, now after the completion of the criminal case the appellants intended to proceed with the disciplinary proceedings, which is as per law and legally valid. It is seen in the present case, after full Trial the Criminal Court had acquitted the petitioner.



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5. In the cases of this nature there are several possibilities. If the disciplinary proceeding was proceeded with and punishment of dismissal from service is imposed. In such cases if the delinquent is convicted in the criminal case, then the punishment of dismissal from service would also be operating against the delinquent. If the disciplinary proceeding was kept in abeyance and in the criminal case the delinquent was convicted, based on the conviction the delinquent would be imposed with the punishment of dismissal from service.

6. If the authority had proceeded with the disciplinary proceedings without waiting for the criminal trial and passed an order of dismissal from service, then on acquittal the authorities are bound to revisit and reconsider the order of dismissal. In such circumstances, the punishment may be modified and the delinquent would be reinstated.

7. If the disciplinary proceeding was kept in abeyance and if the delinquent is acquitted, then the question arises whether the disciplinary proceedings ought to be proceeded with. The answer would be it depends upon the facts of each case.

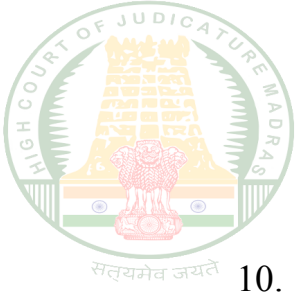


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8. If for the same set of facts, same documents and same witness then the delinquent would be facing second trial under the guise of disciplinary proceeding, then the same would amount to second trial and the same cannot be permitted.

9. However, the contention of the appellant is that the authority is having power to take disciplinary proceeding irrespective of criminal proceeding. Further it is settled principles that for disciplinary proceeding the proof is preponderance of probabilities. Then the authority ought to be allowed to exercise their power. But the Learned Counsel appearing for the writ petitioner contended that if the disciplinary proceeding is allowed then the only apprehension would be whether the delinquent would be dismissed from service. If the authority is restrained from imposing major punishment, then the delinquent would be in a position to face the disciplinary proceeding without any fear. This Court is of the considered opinion that the authorities cannot be restrained from imposing major punishment, but based on case-to-case basis the Court has power to reduce the punishment whenever the punishment is not proportionate.



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10. Based on the above discussion, in the present case falls under the category that the disciplinary proceeding is on the same set of facts, documents, witness as that of criminal proceedings, then the second trial of disciplinary proceedings cannot be allowed. Therefore, the writ court is absolutely right in quashing the charge memo.

11. Therefore, this Court is not inclined to entertain the present writ appeal. Hence, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[J.N.B., J.] [S.S.Y., J.]
12.03.2025

Index : Yes / No

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