



W.P.(MD)No.12363 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2025

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.12363 of 2019

and

W.M.P.(MD)Nos.9235, 9236 & 10279 of 2019

A.Mani

... Petitioner

Vs.

1.The Director,
Adi-Dravidar Welfare Department,
Chepauk, Chennai-5.

2.The District Adi-Dravidar & Tribes Welfare Officer,
O/o.The District Adi-Dravidar & Tribes Welfare Office,
Trichy District,
Trichy

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the second respondent in his proceedings in Na.Ka.W1/9271/2019 dated 29.04.2019 and quash the same as illegal.

For Petitioner : Mr.H.Mohamed Imran,
for M/s.Ajmal Associates

For Respondents : Mr.K.R.Badurus Zaman,
Government Advocate.



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ORDER

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Under assail is the order passed by the second respondent dated 29.04.2019.

2.The case of the petitioner is that originally he was appointed as Cook at District Adi-Dravidar Welfare Department, Chenthurai Government Boys Hostel, Ariyalur, Trichy on 05.10.1990. He was promoted as Driver. While so, there was a matrimonial dispute in his friend's family, due to which, he was roped in a criminal case and a case in Cr.No.63 of 2019 was registered for the offences punishable under Sections 294(b), 323 and 506(1) IPC. He came out on conditional bail that he should sign in the concerned Police Station on daily basis. In order to comply the bail condition, he sought for permission to leave for an hour so as to sign in the Police Station. He gave a letter in writing on 26.03.2019 and he was also orally given permission. The second respondent vide his proceedings dated 10.04.2019 sought for an explanation in this regard. He submitted his explanation on 16.04.2019. However, without even considering his explanation, the second respondent issued the order impugned dated 29.04.2019 by relieving him from service on the ground that he did not get permission for an hour on



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every day to sign in the Police Station. The order impugned is against the service law and simply relieving him from service is un-sustainable in law. Hence, the writ petition.

3.The learned counsel appearing for the petitioner would submit that the petitioner was neither suspended nor he was issued with any memo under the service rules applicable to the petitioner. The petitioner is a civil servant governed by the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 and there is no provision in the Rules to relieve him simply. The punishment prescribed under the Rules cannot be imposed without following due procedure. He would submit that based on the interim stay granted by this Court, the petitioner was reinstated into service and disciplinary action has also been initiated against him.

4.Per contra, the learned Government Advocate appearing for the respondents would submit that disciplinary proceedings has been initiated under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955. After conducting due enquiry in a manner known to law, punishment was awarded withholding two increments with cumulative effect. Aggrieved over the same, he preferred an appeal and the same is pending.



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5.This Court has considered the submissions made on either side and perused the available records.

6.It is seen from the records that there was a criminal case registered against the petitioner in Cr.No.63 of 2019 for the offences punishable under Sections 294(b), 323 and 506(1) IPC. The petitioner filed an anticipatory bail application before this Court in CrI.O.P. (MD)No.3315 of 2019 and vide order dated 04.03.2019 he was enlarged on bail by directing him to appear before the Manaparai Police Station daily at 10.30 am., until further orders.

7.A perusal of the order impugned shows that after obtaining anticipatory bail, the petitioner has not informed anything about FIR registered against him. As per conditional bail order, wherein he is appearing before the Manaparai Police Station daily at 10.30 am., and simultaneously signing register attendance daily at District Adi Dravidar Welfare Office. Thus, the petitioner wantonly, deliberately, intentionally, suppressed the criminal case registered against him. Therefore, in order to prevent further consequence and on the ground of administrative reasons, he was relieved from the post.



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8.It is seen from the typed-set of papers that on 25.05.2019, this

Court issued an order of interim stay. The learned counsel on either side informs this Court that after issuance of interim order by this Court, the petitioner has been reinstated into service, accordingly, he joined the duty. The first respondent has issued an order of reinstatement vide Na.Ga.No.E14/6991/2019 dated 25.06.2020. It is seen from records that there are three charges has been framed against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955. After conducting enquiry, based on the enquiry officer's report, the first respondent has imposed the punishment of withholding two increments with cumulative effect vide proceedings dated 05.08.2022. It is further seen from the records that the petitioner preferred a writ petition in W.P.(MD)No.9590 of 2014 seeking the relief of direction to the first respondent to dispose the appeal preferred by him dated 26.10.2022 against the order of punishment issued by the Director, Adi-Dravidar Welfare Department dated 05.08.2022. This Court vide order dated 18.04.2024 directed the Secretary to Government, District Adi-Dravidar Welfare Department to dispose of the appeal filed by the petitioner.



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9.The order impugned shows that the petitioner was simply relieved from the service without even contemplation of any departmental proceedings, in the manner known to law. The petitioner was neither suspended nor he was issued with any charge memo under the service rules applicable to the petitioner. The petitioner being a civil servant, he was governed by the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955. It is relevant to extract Rule 2 of the Tamil Nadu Civil Services (Discipline and Appeal) Rule, as hereunder:-

2.Application of the Tamil Nadu Civil Services (Discipline and Appeal) Rules:-

The Tamil Nadu Civil Services (Discipline and Appeal) Rules shall apply to all members of the Tamil Nadu State and Subordinate Services and to the holders of all civil posts, whether temporary or permanent in any such service except to the extent otherwise expressly provided:

(i)by or under any law for the time being in force or in any rule;

(ii)in respect of any such member by contract or agreement subsisting between such member or person and the Government.

A member of the civil service of the State and every person holding a civil post under the State whose services are placed at the disposal of any company, corporation,



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organization or local authority shall for the purpose of these rules, be deemed to be a member of such civil service or be deemed to hold such civil post, notwithstanding that his salary is drawn from a source other than the Consolidated Fund of the State.

10.The Rules having the widest applicability are the Tamil Nadu Civil Services (Discipline and Appeal)Rules. These Rules have been framed in conformity with the provisions of Article 311 of the Constitution. These rules along with the Article referred to above have necessarily to be studied carefully and thoroughly by all authorities who have been vested with disciplinary powers. It is absolutely necessary that the proper procedure as laid down in these rules and the various instructions issued thereunder are required to be followed strictly. Any failure to observe the proper procedure, either wilfully or through negligence, will tend to vitiate the entire proceedings, rendering them null and void. There is no provision in the Rules to relieve the petitioner simply without contemplation of departmental proceedings in the manner known to law. It is trite in service jurisprudence a punishment which is not prescribed under the Rules cannot be imposed and as such, the order relieving him is apparently without jurisdiction and the same is liable to



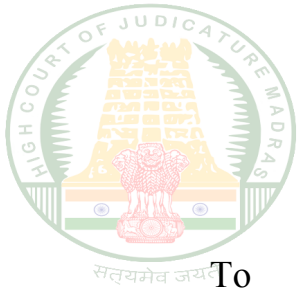
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be quashed. The second respondent can impose any punishment only if it is under rule governing the service condition of the petitioner and as such in the absence of any rule, the order impugned relieving the petitioner is without jurisdiction and thus, illegal. In view of the above, this Court is inclined to quash the order impugned.

11.In the result, this writ petition is allowed and the order impugned dated 29.04.2019 is hereby quashed. The respondents are at liberty to proceed further with the appeal preferred by the writ petitioner, if any pending, in a manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

NCC : Yes / No
Index : Yes / No
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22.04.2025



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To

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Adi-Dravidar Welfare Department,
Chepauk, Chennai-5.
- 2.The District Adi-Dravidar & Tribes Welfare Officer,
O/o.The District Adi-Dravidar & Tribes Welfare Office,
Trichy District, Trichy



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M.JOTHIRAMAN, J.

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