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W.A.(MD)NO.1110 OF 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MS.JUSTICE R. POORNIMA

W.A.(MD)Nos.1110 & 1111 of 2020 AND
C.M.P.(MD)Nos.6072 & 7074 of 2020

W.A.(MD)No.1110 of 2020

1. The Director General of Registration,
Chennai – 600 028.

2. The District Registrar(Audit),
Tiruchirappalli,
Tiruchirappalli District.

3. The District Registrar,
District Registrar Office,
Thanjavur,
Thanjavur District.

... Appellants / Respondents

Vs.

R.Jeganathan (died)

1. Banumathi

2. Ponniyinselvi

(R-1 & R-2 are substituted vide order datd 30.01.2025
in C.M.P.(MD)No.8990 of 2023)

... Respondents / Petitioners

Prayer: Writ appeal filed under Clause 15 of Letters Patent, to
set aside the order dated 13.11.2019 made in W.P.(MD)No.11659 of
2010 and allow the writ appeal.



W.A.(MD)No.1111 of 2020

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1. The Director General of Registration,
Chennai – 600 028.

2. The District Registrar(Audit),
Tiruchirappalli,
Tiruchirappalli District.

3. The District Registrar,
District Registrar Office,
Thanjavur,
Thanjavur District.

... Appellants / Respondents

Vs.

T.Aruldoss

... Respondent / Petitioner

Prayer: Writ appeal filed under Clause 15 of Letters Patent, to
set aside the order dated 13.11.2019 made in W.P.(MD)No.11660 of
2010 and allow the writ appeal.

(in both W.As.)

For Appellants : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by,
Mr.Sadik Raja,
Additional Government Pleader.

For Respondent : Mr.A.Rahul

* * *

**COMMON JUDGMENT****(Order of the Court was delivered by G.R.SWAMINATHAN, J.)**

Heard the learned Additional Advocate General appearing for the State and the learned counsel appearing for the respondents.

2. The writ petitioners herein were working as Office Assistants in the Registration Department in the office of Sub Registrar Office, Budalur. They were suspended from service on 04.05.2005 on the ground that the enquiry was contemplated in respect of the grave delinquencies said to have been committed by them. The charge memo was issued on 18.04.2006. The charge against the petitioners was that they had misappropriated a sum of Rs.7,32,400/-. An enquiry was conducted and the enquiry officer submitted his report dated 26.06.2008 holding that while the charge of misappropriation was not proved, the delinquents had committed serious lapse in discharging their duties. The disciplinary authority namely, IG of Registration did not agree with the aforesaid finding of the enquiry officer. He came to the conclusion that the charge of misappropriation was established and ordered the punishment of removal from service vide order dated 28.05.2010. Challenging the



same, the writ petitioners filed W.P.(MD)Nos.11659 and 11660 of 2010. The learned single Judge vide order dated 13.11.2019 set aside the orders impugned in the writ petitions and allowed both the writ petitions in the following terms:-

“6.From the nature of allegation against the Sub Registrar and the modus operandi of the Sub Registrar, who misappropriated a huge sum, it is seen that the Sub Registrar has misappropriated the amount by short remittance and by creating forged challan to tally the amount. This can be inferred from the statement in the charge sheet filed against the Sub Registrar. Therefore, the register maintained by the Sub Registrar would not show any irregularity and whatever the amount that was collected in the Registration Office have been properly accounted in the books maintained by the Sub Registrar by fabricating challan. Based on the signature of the petitioners, it is improbable for anyone to conclude that the petitioners have also aided Sub Registrar or have acted in collusion with the Sub Registrar to enable him to misappropriate a huge sum. From the enquiry report, it is seen that the conclusion is not only erroneous, but not based on any materials. The facts assumed are contrary to admitted position and hence, the report is nothing but, perverse. It is



only based on the enquiry report, the first respondent has passed the order, removing the petitioners from service.

7. In the said circumstances, this Court is of the view that the impugned order removing the petitioners from service is not warranted and the petitioners are not guilty of any irregularity or misappropriation. Therefore, these Writ Petitions are allowed and the impugned orders, passed by the first respondent, dated 28.05.2010 are set aside. It is reported that the petitioners have now attained the age of superannuation and retired from service in 2011 and that retirement benefits have not been settled. The respondents shall reinstate the petitioners in service notionally and grant all monetary benefits and retirement benefits to the petitioners forthwith. No costs.”

3. Aggrieved by the same, these writ appeals have been filed.

4. There is considerable merit in the contention of the learned counsel for the writ petitioners that when the disciplinary authority dissented from the view taken by the enquiry officer in favour of the



delinquents, he ought to have put the delinquents on notice. Failure to do so definitely goes to the root of the matter.

5. If we sustain this argument, the resultant effect would be to remand the matter to the file of the disciplinary authority once again.

6. We are of the view that such course of action need not be taken for more than one reason. The cause of action arose way back in the year 2005. One of the writ petitioners Jeganathan had passed away and his legal heirs have come on record. Aruldoss had also reached the age of superannuation in the year 2016 itself. In this background, we propose to have examine the materials on record on merits.

7. From a bare reading of the enquiry report, it is seen that the writ petitioners herein had signed in the remittance register. But then, they did not go to the bank for remitting the amount. It was too obvious that the short fall had been misappropriated by one Panchanathan, Sub Registrar. It is true that the writ petitioners did not do any misappropriation. But then, had they reported the matter



immediately to the higher-ups; the misappropriation committed by Panchanathan could not have been checked quite earlier. There is considerable evidence on record to show that the writ petitioners had not colluded. It is for this reason, we propose to modify the punishment from removal from service to one of compulsory retirement. The impugned order passed by the learned single Judge is modified.

8. The appellants are directed to disburse the terminal benefits payable to Aruldoss and the legal heirs of Jeganathan in terms of this order within a period of three months from the date of receipt of a copy of this order. The writ petitioner / legal heirs will be entitled to interest as per the extant rules. These writ appeals are partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.SWAMINATHAN, J.) & (R. POORNIMA, J.)
30th January 2025

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W.A.(MD)NO.1110 OF 2020

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AND

R.POORNIMA, J.

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