



W.A.(MD)No.1397 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.06.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)No.1397 of 2025
and
C.M.P.(MD)No.8378 of 2025**

- 1.The State of Tamil Nadu
Represented by its Additional Chief Secretary to Government,
Home Department, Secretariat,
Chennai - 600 009.
 - 2.The Director General of Police,
Office of the Director General of Police,
Tamil Nadu, Chennai - 600 004.
 - 3.The Additional Director General of Police,
Office of the Director General of Police,
Law & Order, Chennai – 4.
 - 4.The Inspector General of Police /
Commissioner of Police,
Tirunelveli City,
Tirunelveli.
 - 5.The Deputy Commissioner of Police,
Office of the Deputy Commissioner of Police,
Law & Order, Tirunelveli City,
Tirunelveli.
- ... Appellants



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Vs.

G.Chakkaravarthy

... Respondent

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.20041 of 2024 dated 21.01.2025 on the file of this Court.

For Appellants : Mr.A.Kannan, Addl. Government Pleader.

For Respondent : Mr.M.E.Ilango for M/s.Ajmal Associates.

JUDGMENT

(By G.R.SWAMINATHAN, J.)

The State is on appeal challenging the order dated 21.01.2025 made in WP(MD)No.20041 of 2024 filed by the respondent herein.

2.The respondent herein joined Palayamkottai Division as Assistant Commissioner of Police on 29.10.2018. He was transferred to Chennai Control Room on 12.01.2019. Challenging the same, the respondent filed WP(MD)No.1028 of 2019. The said writ petition was dismissed on 01.02.2019. Questioning the said dismissal order, the



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respondent filed WA(MD)No.219 of 2019. Before the Hon'ble Division Bench, the respondent herein made several serious allegations against his superior officers. The transfer order was set aside and the writ appeal was allowed on 22.01.2020. The Hon'ble Division Bench directed the government to nominate an officer of CBCID to go into the allegations made by the respondent herein. Instead of complying with the direction issued by the Hon'ble Division Bench, the Inspector General of Police / Commissioner of Police, Tirunelveli City issued charge memo dated 22.10.2021.

3.The charge memo contained four articles of charge. The sum and substance of the charges is that the respondent herein while enquiring into the complaint made by one Sheik Meeran, Thoothukudi is said to have travelled in the night hours of 02.01.2019 in a private Innova car from Palayamkottai to Periyathalai in Thoothukudi District without getting prior permission from his superior officer. Periyathalai was beyond his jurisdiction. The respondent was on a mission to recover the stolen gold weighing 25 sovereigns. He actually caught-hold of the accused (Rathnakumar) but allowed him to escape on the following day.



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4.In this regard, the Deputy Superintendent of Police, Crime Branch CID, Tirunelveli was appointed as enquiry officer. The enquiry officer gave a finding that Charge No.1 was partially proved while the remaining three charges were fully proved. Copy of the enquiry report was served on the respondent and his further representation was also obtained. The government itself chose to pass the order of punishment. The government accepted the findings of the enquiry officer and imposed the punishment of stoppage of increment with cumulative effect vide GO(2D)No.254, Home (Police.2) Department, dated 08.08.2024. Challenging the same, the respondent herein filed W.P.(MD)No.20041 of 2024. The learned Single Judge vide order dated 21.01.2025 set aside the government order impugned in the writ petition and allowed the writ petition. Questioning the same, this writ appeal has been filed.

5.The learned Additional Government Pleader for the State reiterated all the contentions set out in the grounds of writ appeal. His core argument is that the scope of interference by the Writ Court is rather limited in such matters. The standard of proof in a departmental proceeding is one of some evidence which is lesser than the civil law



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standard of preponderance of probability. In this case, the charge memo was issued, witnesses were examined, the delinquent was given the fullest opportunity to cross examine them and after thus complying with the principles of natural justice, the enquiry officer submitted his enquiry report. Copy of the enquiry report was served on the delinquent and his further representation was also obtained and only thereafter, the impugned order came to be passed. The order passed by the government rests on substantial evidence. When the procedural requirement of fairness stood satisfied, the learned Single Judge ought not to have interfered in the matter. The learned Additional Government Pleader submitted that the order of the learned Single Judge deserves to be set aside and the writ appeal has to be allowed.

6.Per contra, the learned counsel for the respondent / writ petitioner submitted that the learned Single Judge had interfered in the matter because the charges against the delinquent are based on zero evidence and not some evidence. He also pointed out that there has been a serious breach of the principles of natural justice. He called upon this Court to sustain the order of the learned Single Judge and dismiss the writ appeal.



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7.We carefully considered the rival contentions and went through the materials on record.

8.The entire charge memo laid against the delinquent is based on the complaint given by Sheik Meeran. He was examined as P.W.1. The statement of Sheik Meeran had been enclosed in the typed set of papers. The charge memo dated 22.10.2021 contains the following articles of charge :

“Delinquency -1:

"Highly reprehensible conduct in having complied with the malafide instructions to the Police team headed by you on 02.01.2019 night at 1000 p.m proceeded along with them in a private vehicle TN 72 AP 6865 Innova car to Periyathalai in Thoothukudi district beyond his jurisdiction, without getting any prior permission to leave headquarters from your superiors and secured one Rathinakumar at mid night and brought to office of the ACP Palayamkottai, on next day morning 06.00 hrs for the sake of an enquiry into a petition purported to have been sent by Tr.Sheik Meeran, Thoothukudi and came to aware that he had concealed the suit case with smuggled properties in a gunny bag, in a pit in the sea-shore, laid it in 5 fee depth and closed the pit near thorny buses, and involved in malicious action thereby violating the duties and responsibilities as laid down in PSO 147 Volumen-1 and rule 20 of Tamil Nadu Government Servants Conduct Rules 1973 by not maintain absolute integrity and devotion to duty"



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Delinquency-2:

Highly reprehensible and grave misconduct in having taken the said Rathinakumar of Periyathalai on 03.01.2019 morning to the house of one Anthony Shajee a relative of Ponnukutty in VOC Nagar near KTC Nagar in Palayamkottai and detained him in illegal custody for the sake of an enquiry into a petition purported to have been received from Tr.Sheik Meeran, Thoothukudi along with your Police team and thereby violating the laid down procedures in PSO 150 Volume-1 and rule 20 of the Tamil Nadu Government Servant's Conduct Rules 1973 by not maintaining absolute integrity and devotion to duty"

Delinquency-3:

"Highly reprehensible conduct in having used Government vehicle TN 72 G 1341 and private Innova car No.TN 72 AC 7906 with the malicious purpose of smuggled properties on 03.01.2019 at about 03.00 p.m without any permission from the superior officers for his personal furtherance and after that refusing to sign in the vehicle diary for the trips to Periyathalai village of Thoothukudi Disriet twice with an intention to hide his suspicious activities and thereby violating the duties and responsibilities as laid down in PSO 147 Volumen-1 and rule 20 of Tamil Nadu Government Servants Conduct Rules 1973 by not maintaining absolute integrity and devotion to duty"

Delinquency -4:

"Highly reprehensible conduct and gross neglect of duty in having dealt with the said Rathinakumar of Periyathalai who was taken to



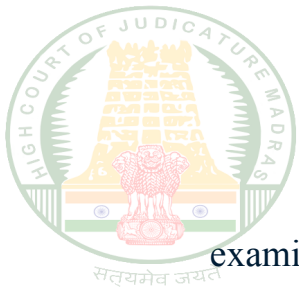
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the village with hand-cuff in a negligent manner and allowed him to escape from the custody with hand-cuff from the sea-shore, Periyathalai on 03.01.2019 at about 07.15 p.m resulting filed to produce the accused before the competent Court within 24 hours and failed to given complaint for the above incident to the nearest Police Station and thereby violated 57 Cr.PC, 1973 and rule 20 of Tamil Nadu Government Servants Conduct Rules 1973 by not maintaining absolute integrity and devotion to duty".

The enquiry officer had given a finding that the first charge was partly proved. According to the enquiry report, though the delinquent did not personally visit the spot and had sent a special team, he failed to seek prior permission from the superior for despatching the team beyond his jurisdiction. The aforesaid finding rests on the testimony of the complainant Sheik Meeran (PW.1). PW.1 admitted in response to Question No.76 that he saw the delinquent at the time of lodging complaint and that he has no direct knowledge of the other aspects of the imputation of misconduct. PW.1 was obviously not competent to speak as to whether the delinquent obtained prior permission from his higher officials or not before proceeding to Periyathalai in Tuticorin. On the other hand, one Annaraja, S.I of Police, TVMCH Police Station, Tirunelveli was examined as PW.5. He deposed even in chief



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examination that he came to know that ADGP and I.G of Police spoke to the delinquent to carry out the operation. He also deposed that the delinquent had informed the D.I.G about moving to Periyathalai for the operation. He admitted that due to pressure from higher officials, he lodged complaint against the delinquent.

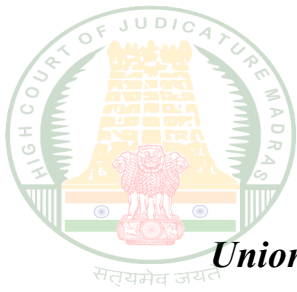
9.The second charge pertains to the alleged illegal detention of Rathnakumar for nearly one and half hours in a private house in the guise of investigation. In support of this charge, PW.11, the house owner was examined. PW.11 nowhere implicated the delinquent. Neither Rathnakumar nor any of his family members were examined as witnesses. Admittedly, they had not given any complaint. PW.9 was also examined to prove this charge but he did not identify the delinquent. When there is no complaint from the victim about illegal detention and when the evidence of PW.11 is not adverse to the delinquent, the enquiry officer could not have arrived at a finding that Charge No.2 is proved.

10.The third charge is closely linked to the first charge. The enquiry officer had concluded that the delinquent did not travel to



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Periyathalai which was beyond his jurisdiction. Therefore, in the same breath, he could not have given a finding that the delinquent had used the government vehicle and another private vehicle on 03.01.2019 without permission from his superiors. The second part of the charge is that the delinquent refused to sign the log diary. The best witness can only be the vehicle driver who was examined as PW.6. He also admitted that he had given a false statement originally against the delinquent under pressure from the higher authorities. Shockingly, the enquiry officer himself cross examined PW.6. An enquiry officer can definitely pose questions to the witness for obtaining clarification. But he cannot step into the shoes of the presenting officer and question the witness in the manner of cross examination. The Hon'ble Supreme Court in ***State of U.P. v. Saroj Kumar Sinha*** reported in (2010) 2 SCC 772 held that an inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator and that he is not supposed to be a representative of the department/disciplinary authority/Government. The Hon'ble Supreme Court in ***Workmen v. Lambabari Tea Estate*** (1966) 12 FLR 361 observed that if the Enquiry Officer did not keep his function as Enquiry Officer but becomes prosecutor, the inquiry is vitiated. In



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Union of India v. Ram Lakhan Sharma, (2018) 7 SCC 670, the Hon'ble

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Supreme Court held as follows:

36. Thus, the question as to whether the Enquiry Officer who is supposed to act independently in an inquiry has acted as prosecutor or not is a question of fact which has to be decided on the facts and proceedings of a particular case. In the present case we have noticed that the **High Court had summoned the entire inquiry proceedings and after perusing the proceedings the High Court came to the conclusion that the Enquiry Officer himself led the examination-in-chief of the prosecution witness by putting questions. The High Court further held that the Enquiry Officer acted himself as prosecutor and Judge in the said disciplinary enquiry.**

37. The High Court having come to the conclusion that the Enquiry Officer has acted as prosecutor also, the capacity of independent adjudicator was lost while adversely affecting his independent role of adjudicator. In the circumstances, the principle of bias shall come into play and the High Court was right in setting aside the dismissal orders by giving liberty to the appellants to proceed with inquiry afresh.

The finding of the enquiry officer regarding Charge No.3 is also without any evidential foundation.

11. The fourth charge could have held good if any FIR had been registered against the said Rathnakumar. When Rathnakumar was not made an accused on the basis of PW.1's complaint, there cannot be an



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allegation that the delinquent arrested the said Rathnakumar and subsequently permitted him to escape from custody. The charge is that Rathnakumar escaped along with the handcuff from the seashore of Periyathalai. But no complaint was lodged that a handcuff was missing. Admittedly, no FIR was registered against Rathnakumar even by the officer who succeeded the delinquent. A person who is not an accused could not have been arrested. Thus, the fourth charge also falls to the ground.

12.It is well settled that a writ court cannot consider the question about the sufficiency or adequacy of evidence in support of a particular conclusion. But when it is the specific plea of the delinquent that the conclusion is based on no evidence, the High Court can and must enquire whether there is any evidence at all in the support of the impugned conclusion. In other words, the test is if the whole of the evidence is accepted as true, does the conclusion follow that the charge is proved against the delinquent. (vide *Union of India (UOI) Vs. H.C. Goel (AIR 1964 SC 364)*). The Hon'ble Supreme Court in *Union Bank of India vs Biswanath Battacharjee (2022) 13 SCC 329* held that to arrive at a finding of “no evidence”, some amount of scrutiny would be necessary.



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13.The learned Single Judge conducted scrutiny only within the aforesaid parameters. No reasonable man could have arrived at the conclusion that the charges against the writ petitioner have been established. It is a case of no evidence. That is why, the learned Single Judge quashed the order impugned in the writ petition. After a careful re-appreciation of the entire material on record, we hold that the approach adopted by the learned Judge cannot be faulted.

14.There is no merit in the writ appeal and it stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (K.R.S. J.)
26.06.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias/SKM

To:

- 1.The Additional Chief Secretary to Government,
Home Department, Secretariat, Chennai - 600 009.
- 2.The Director General of Police,
Office of the Director General of Police,
Tamil Nadu, Chennai - 600 004.

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