



WP(MD)No.12635 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 30.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.12635 of 2021 and
WMP(MD)No.9858 of 2021**

S.Manoharan

... Petitioner

Vs

**1.The Secretary to Government,
Home (Courts) Department,
Secretariat, Fort St.George,
Chennai.**

**2.The Advocate General,
High Court of Madras,
Chennai – 600 104.**

**3.The Government Pleader,
High Court of Madras,
Chennai – 600 104.**

**4.The Deputy Director,
Office of the Advocate General of Tamil Nadu,
Chennai – 600 104.**

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the



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records of the impugned final order of dismissal passed by the 3rd respondent in ROC.Nos.542 and 597/AII/2020 dated 13.01.2020 and the rejection of petitioner"s appeal by the 2nd respondent in Proc.No.109-A/2021, dated 01.04.2021 and quash the same as illegal, improper and unconstitutional, consequently direct the respondents to grant all service and monetary benefits to the petitioner including notional promotion to suitable post from the date on which his juniors were promoted along with back wages and arrears within the time that may be stipulated by this Court.

For Petitioner : Mr.S.Balamurugan

For Respondents : Mr.G.V.Vairam Santhosh,

Additional Govt.Pleader

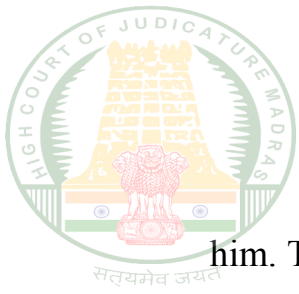
ORDER

The petitioner was an employee of the Government Pleader Office at Madras High Court, Chennai. He was arrested by the CBCID in the year 2003 and 30 fake stamp papers of Rs. 1000/- denomination were recovered pursuant to the confession statement of the main accused one Selvam, who was arrested on 09.11.2003. The CBCID Police has registered a case against the petitioner in Crime No.11 of 2003 for the offences under Section 255 to 259 of IPC r/w with Section 120B of IPC.



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The final report was filed before the VII Additional Sessions Court, Chennai in SC No.476 of 2007. The petitioner was convicted by the Additional sessions Court, Chennai by Judgment dated 20.08.2009 with a punishment of rigorous imprisonment for seven years and a fine of Rs.5000/-. Based on the conviction imposed on the petitioner, the Government Pleader dismissed this petitioner from service on 04.01.2010 under Rule 17 (C)(1)(I) of the Tamil Nadu Civil Services (Discipline and appeal) Rules. The petitioner has preferred an appeal before this Court in CA.No.538 of 2009 and it was allowed in favour of this petitioner by judgment dated 21.04.2011. Based on the order of this Court in CA.No. 538 of 2009, the petitioner has approached the Government Pleader for reinstating him into service. He also filed a writ petition before this Court, seeking a direction to reinstate him with all consequential benefits. The writ petition filed by the petitioner in WP No.6820 of 2013 was disposed by this Court vide order dated 20.03.2015 directing the Government Pleader to take a decision on his representation. Accordingly, he was reinstated into service and was posted in the office of Government Pleader, Madurai Bench of Madras High Court without prejudice to the disciplinary proceedings proposed to be initiated against



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him. Thereafter, two set of charges were framed as against this petitioner on 26.11.2018 and 26.12.2018 as under:

“Charge memo -1 in RC.NO.542/AII/2018, dated 26.11.2018.

Charge:1

Tr.Manoharan, Junior Assistant, Office of the Government Pleader, Madurai Bench of Madras High Court while working in the Office of the Government Pleader, High Court, Chennai on 09.11.2003 was found in possession of 30 nos of Rs.1000/- face value fake stamp papers which was detected and seized by the Inspector of Police, Chennai, CBCID 09.11.2003 from Tr.Manoharan under seizure Mahazer in front of 2 witnesses.

Charge :2

Tr.Manoharan, Junior Assistant, Office of the Government Pleader, Madurai Bench of Madras High Court while working in the Office of the Government Pleader, High Court, Chennai on 09.11.2003 by knowing fully well had purchased 20 nos Rs.1,000/- face value fake judicial stamp papers from one Soosairaj @ Soosairayan and have been found in possession of 30 nos of Rs.1000/-face value fake judicial stamp papers thereby charged for offences involving moral turpitude and



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thereby caused disrepute to the office of the Government Pleader, High Court, Chennai for the second time.

Charge 3:

Tr.Manoharan, Junior Assistant, Office of the Government Pleader, Madurai Bench of Madras High Court while working in the Office of the Government Pleader, High Court, Chennai in 2003 had involved in selling of fake judicial stamp papers for exorbitant monetary gain, thereby had caused huge monetary loss to the government and had acted in a manner unbecoming of the government servant.

Charge 4:

Tr.Manoharan, Junior Assistant, Office of the Government Pleader, Madurai Bench of Madras High Court while working as Office Assistant in the Office of the Government Pleader, Higher Court, Chennai in the year 1995 had involved in a Criminal Case for an offences under Section 324 and 506(ii) IPC and a charge sheet was also filed as against you by the Inspector of Police, B2, Esplanade Police Station in CC.No.3096 of 1995 and thereby causing disrepute to the Office of the Government Pleader, High Court, Chennai by involving in Criminal Cases.



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Charge 5:

Tr.Manoharan, Junior Assistant, Office of the Government Pleader, Madurai Bench of Madras High Court while working as Office Assistant in the Office of the Government Pleader, Higher Court, Chennai on 09.11.2003 while discharging his official duties had failed to maintain absolute integrity and devotion to duty in contravention of Rule 20(1) of Tamil Nadu Government Servant's Conduct Rules, 1973.

Charge Memo -2 in RC.No,597/All/2018, dated 26.12.2018

Charge 1:

Tr.Manoharan, Junior Assistant, Office of the Government Pleader, Madurai Bench of Madras High Court while working as Office Assistant had applied for the unearned leave on medical certificate (medical leave) for the period from 17.04.1995 to 26.04.1995 stating that he is suffering from viral fever and he had also enclosed medical certificate to that effect. However, during the said period he was absconding the arrest by Police Department in connection with Cr.No.1041/1995 of B2-Esplanade Police Station and he has surrendered before the XII Metropolitan Magistrate Court, George Town,



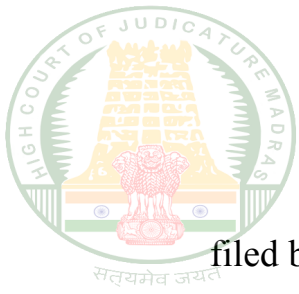
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Chennai -1, on 25.04.1995 in connection with CC.No. 3096 /1995 after executing the bail bond for Rs.3,000/- with sureties as per the anticipatory bail conditions imposed in CrIOP.No.2598 of 1995 dated 21.04.1995 by the Hon'ble High Court, Madras. Thus, he had suppressed the facts about the absconding of arrest, before the XII Metropolitan Magistrate Court, George Town, Chennai – 1 and had given a false leave application along with false medical certificate.”

2.A Special Government Pleader was appointed as an enquiry officer to enquire into the charges leveled against this petitioner and the enquiry officer after conducting a detailed enquiry submitted a report that the charges framed against the delinquent officer were proved. The enquiry report was communicated to the delinquent officer on 18.10.2019 for his further representation based on the enquiry report. The petitioner has also submitted his further representation. The Government Pleader / the disciplinary authority imposed a punishment of dismissal from service. As against the order of the disciplinary authority the petitioner preferred an appeal before the Advocate General for Tamil Nadu / the appellant authority. The appellate authority rejected the appeal



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filed by this petitioner and therefore, this petitioner is before this Court.

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3.The learned counsel for the petitioner submits that the disciplinary proceedings was initiated after a period of 23 years and the charges leveled as against the petitioners were quashed by this Court in the criminal case and therefore, on the same set of charges, there cannot be any further disciplinary proceedings against him. The appellate authority has quashed the 2nd charge that without any valid reason the charge was framed after a period of 23 years. The learned counsel also pointed out that without considering the order passed by this Court in CA.No. 538 of 2009 dated 21.04.2011, the disciplinary authority has passed an order in a mechanical manner.

4.The learned Additional Government Pleader submits that the acquittal from the criminal case is not a ground to proceed with the disciplinary proceedings. He further submits that this petitioner was arrested by the CBCID and 30 fake stamp papers were recovered from this petitioner. The order of acquittal passed in the criminal appeal on the available evidence in the criminal case cannot be a ground for dropping



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the disciplinary proceedings as against this petitioner.

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5.The learned Additional Government Pleader has also pointed out that the ratio which needs to be considered in the criminal proceedings is different from the ratio which needs to be considered in the departmental proceedings. The learned Additional Government Pleader further submits that the Hon'ble Supreme Court in a number of cases held that even if a person has been acquitted in the criminal trial, the employer is entitled to proceed with the disciplinary proceedings and impose the punishment.

6. This court considered the rival submissions made and also perused the materials placed on record.

7.The main contention of this petitioner is that he was acquitted by the criminal Court in CA.No.538 of 2009. The petitioner was imposed with a punishment by the VII Additional Sessions Court in AC No.476 of 2007. Based on the conviction, he was initially dismissed from service, as per Rule 17(C)(i)(I) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules by the impugned order.



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8. Since this petitioner was acquitted by this Court in CA No.538 of 2009, the petitioner was reinstated without prejudice to the disciplinary proceedings proposed to be initiated against him. Accordingly, the charge memos were issued on 26.11.2018 and 26.12.2018. The first charge memo is pertaining to the fake stamp papers. The investigation agency has recovered 30 fake stamp papers of Rs. 1000/- denomination from this petitioner in the year 2003. Though this petitioner was acquitted of the criminal case, the department is entitled to conduct the enquiry separately and can impose the punishment. The standard of proof in a criminal case is beyond reasonable doubt and in a departmental proceedings is preponderance of probabilities. Therefore, the acquittal of the criminal case is a not a bar to the disciplinary authority to proceed with the departmental proceedings.

9. The appellate authority has considered the case of the petitioner and has quashed the charge memo dated 26.12.02018 considering the ratio laid down by the Hon'ble Supreme Court, this Court is not inclined to interfere with the orders of the disciplinary authority and the appellate authority on the ground of acquittal. The petitioner has not made out any case.



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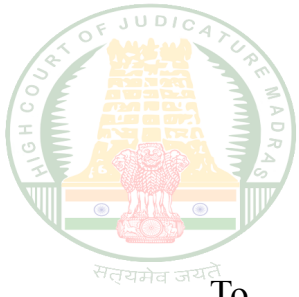
10. Accordingly, this petition is dismissed. No costs. Consequently

connected miscellaneous petition is closed.

30.01.2025

DSK

index : Yes / No



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B.PUGALENDHI, J.

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