



WEB COPY



1

W.A.(MD)Nos.1016&1017 OF 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.A.(MD)Nos.1016 & 1017 of 2019 AND

C.M.P.(MD)Nos.9330 & 9421 of 2019

1. The Managing Director,
Tamil Nadu Civil Supplies Corporation,
No.12, Thambusamy Road,
Kilpauk, Chennai.

2. The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Ramanathapuram Region,
Ramanathapuram.

... Appellants / Respondents
in both Both WAs.

Vs.

1. R.Ramachandran(Died)

2. R.Malarkodi

3. Pandimadevi

(R-2 & R-3/ LRs of the deceased sole respondent
are impleaded vide order dated 18.06.2025 in
C.M.P.(MD)Nos.17880 & 17885 of 2024)

... Respondents in both WAs.

Common Prayer: Writ Appeals filed under Clause 15 of Letters Patent, to set aside the order dated 04.03.2019 made in W.P.(MD) Nos.13645 and 16811 of 2014 and allow the writ appeals.



WEB COPY



(in both WAs.)

For Appellant : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by,
Mr.G.Mohan Kumar.

For R-2 & R-3 : Mr.D.Shanmugaraja Sethupathi

* * *

COMMON JUDGMENT

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

Heard both sides.

2. The Management of Tamil Nadu Civil Supplies Corporation has filed these appeals assailing the order dated 04.03.2019 passed by the learned single Judge allowing W.P.(MD)Nos.13645 and 16811 of 2014 filed by one Ramachandran.

3. The said Ramachandran joined the appellant Corporation as a Bill Clerk on 05.02.1975. On 01.04.2010, he was promoted as Regional Manager. He assumed charge as Regional Manager at Ramanathapuram on 10.09.2010. He had authorised the purchase of 5,47,900 numbers of gunny bags for a sum of Rs.88,00,000/- at Rs.16/- each during his tenure at Ramanathapuram. Subsequently, a



complaint was received that the procedure for purchases was not followed by him. After conducting discreet enquiry, he was placed under suspension on 24.12.2012. Since he reached the age of superannuation on 30.04.2012, he was retained in service on 27.04.2012. Subsequently, charge memo dated 04.07.2012 was issued. The petitioner offered his explanation. Since the disciplinary authority was not satisfied with the explanation, enquiry was ordered to be conducted. Enquiry report was adverse and charges framed against Ramachandran were held to be proved. After issuing second show cause notice and obtaining his further representation with reference to the enquiry report, vide order dated 09.06.2014 of the disciplinary authority, he was removed from service. On 22.09.2014, recovery order was also passed. Challenging these orders, the aforesaid writ petitions were filed.

4. It is seen that the learned single Judge did not go into the merits of the matter at all. The writ petitions were disposed of on a short technical ground. The learned single Judge vide order dated 04.03.2019 quashed the orders impugned in the writ petition and allowed both the writ petitions. Challenging the same, these writ appeals have been filed.



WEB COPY 5. During the pendency of these writ appeals, Ramachandran passed away and his legal heirs have come on record.

6. It is seen that Ramachandran was retained in service by invoking Rule 13(b) of TNCSC Employees Service Regulations 1989.

The said provision reads as follows:-

“The competent authority can retain the employee beyond the date of retirement if the individual is on suspension at the time of retirement due to the pendency of disciplinary proceedings and the disciplinary authority is of the view that it will result in awarding major punishment of either dismissal or removal from service.”

7. A careful reading of the aforesaid provision would lead to the conclusion that an employee of the appellant Corporation can be retained in service beyond the date of his retirement if he was on suspension at the time of retirement due to pendency of disciplinary proceedings. The power to suspend is traceable to Rule 13(a) / Rule 13(6)(a)(i) of the Service Regulations. They are as follows:-



WEB COPY

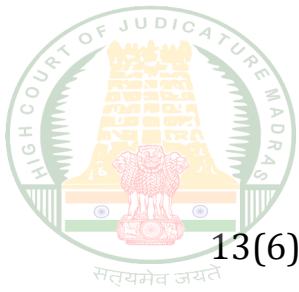


“13(a) The competent authority at their discretion may place an employee under suspension if there is pendency of disciplinary proceedings for grave charges / irregularities at the time of retirement and the disciplinary authority is of the view that it will result in awarding major punishment of either dismissal or removal from service.

...

13(6)(a)(i) An enquiry against him / her into grave or serious irregularities either by an act of commission or omission or gross indiscipline or wilful misbehaviour is contemplated or is pending. However, in all such cases, definite charges should be served on the delinquent within 3 months from the date of order of suspension, failing which the suspension order be revoked notwithstanding the continuance of the disciplinary proceedings.”

8. It is true that in the case on hand, Ramachandran was placed under suspension already. But the suspension order was passed in contemplation of certain grave allegations against him and not on account of pendency of disciplinary proceedings. In other words, suspension order was passed not under Rule 13(a), but under Rule



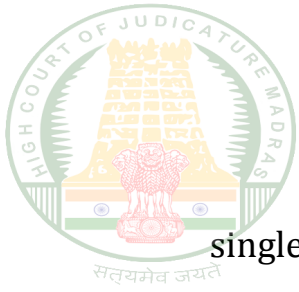
13(6)(a)(i) of the Service Regulations.

WEB COPY

9. The Hon'ble Supreme Court in the decision reported in **(2007) 6 SCC 694 (UCO Bank V. Rajinder Lal Capoor)** held that the disciplinary action can be said to commence only when a charge memo is issued. In this case, charge memo was issued only in July 2012. Admittedly, before the employee reached the age of superannuation, no charge memo was issued to him. Therefore, the corollary is that no disciplinary proceedings were pending against him. In these circumstances, passing an order retaining him in service was patently without jurisdiction.

10. The employee appears to have participated in the enquiry proceedings with demur and even filed writ petition for expediting them. But these acts on the part of the employee will not operate as an estoppel.

11. By consent, one cannot confer jurisdiction. Therefore, when the order retaining the employee is found to be lacking in jurisdiction, the subsequent actions will have to automatically go. The learned single Judge had rightly approached the issue. Interference with the order of the learned single Judge is not warranted. However, one clarification would be in order. The learned



single Judge had held that unless the disciplinary proceedings are pending, the employee cannot be placed under suspension. This view may not be correct. Rule 13(6)(a)(i) enables suspension of an employee, even when an enquiry into grave irregularities committed by him is envisaged or contemplated. To this extent, the order of the learned single Judge was not right. In all other respects, we confirm the order of the learned single Judge. This writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.SWAMINATHAN, J.) & (K.RAJASEKAR, J.)
21st August 2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU



WEB COPY



8

W.A.(MD)Nos.1016&1017 OF 2019

G.R.SWAMINATHAN,J.

AND

K.RAJASEKAR, J.

PMU

W.A.(MD)No.1016 & 1017 of 2019

21.08.2025