



W.P.(MD)No.16691 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2025

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

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T.Kannan

... Petitioner

Vs.

- 1.The Managing Director,
Secretariat, 4th Floor,
C.M.T.A.Tower-2,
Egmore, Chennai.
- 2.The Regional Manager,
TASMAC, Tiruchirappalli District,
Tiruchirappalli.
- 3.The District Manager,
TASMAC,
Pudukkottai District,
Pudukkottai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, call for the records relating to the order passed by the 1st respondent in Se.Mu.Na.Ka.No.R1/18177/2016, dated 03.04.2017 and quash the same as illegal and consequently directing the respondents to reinstate petitioner in the service and with all other monetary and service benefits.



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For Petitioner : Mr.P.Pandiarajan

For Respondents : Mr.H.Arumugam,
Standing Counsel

ORDER

This writ petition has been filed challenging the impugned order dated 03.04.2017 passed by the first respondent, whereby the order of the Disciplinary Authority dated 15.04.2015 has been confirmed. Under the impugned order, the petitioner has been dismissed from service on the ground of his unauthorized absence for a period of eight months.

2. The petitioner claims that only due to his medical ailments, he was unable to attend duty for a period of eight months and he also submits that despite producing a medical certificate, the Enquiry Officer failed to consider the same and has erroneously held that the petitioner was found guilty of the charges framed against him in the disciplinary proceedings, viz., unauthorized absence for a period of eight months. The Disciplinary Authority, based on the findings of the Enquiry Officer, has imposed the punishment of dismissing the petitioner from service. Aggrieved by the same, the petitioner preferred an appeal before the second respondent. The second respondent also upheld the order of the Disciplinary Authority by imposing the punishment of dismissing the petitioner from service. Aggrieved by the same, the petitioner preferred a



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revision before the first respondent. The first respondent under the impugned order has also upheld the order passed by the Disciplinary Authority as well as the Appellate Authority by dismissing the revision filed by the petitioner under the impugned order dated 03.04.2017. Aggrieved by the same, this writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that even though the petitioner has challenged only the impugned order passed by the first respondent (Revisional Authority), the petitioner is also aggrieved by the order of the Disciplinary Authority as well as the Appellate Authority. He would also submit that the medical certificate produced by the petitioner before the Enquiry Officer has not been considered by the Enquiry Officer in his enquiry report. He would also submit that despite the Enquiry Officer in his enquiry report, has observed that the medical certificate was produced by the petitioner, the Enquiry Officer has not considered the same in his enquiry report. He would also submit that the Disciplinary Authority, while imposing the punishment of dismissing the petitioner from service, has erroneously given retrospective effect to the dismissal, which is not legally permissible as per the settled law. In support of the said contention, the learned counsel drew the attention of this Court to the Division Bench judgment of the Madras High Court dated 05.01.2009 in W.A.No.1905 of 2003, more particularly, to



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paragraph No.6 of the said judgment, wherein, it has been held that the order of termination is vitiated on the ground that it has been given effect retrospectively from the date of suspension, though it ought to have been given effect only from the date of the order.

4. On the other hand, the learned Standing Counsel appearing for the respondents would reiterate the contents of the counter filed by the third respondent before this Court. He would submit that only due to the long unauthorized absence of the petitioner i.e., for a period of eight months, he has been dismissed from service. According to the learned Standing Counsel appearing for the respondents, the punishment imposed on the petitioner is only based on the findings rendered by the Enquiry Officer, who has held that the charges framed against the petitioner are proved. He would also submit that since the petitioner has not challenged the order of the Disciplinary Authority as well as the order of the Appellate Authority and since the petitioner has challenged the order of the Revisional Authority alone, this writ petition is not maintainable. It is also represented by the learned Standing Counsel appearing for the respondents that this writ petition has been filed after a lapse of five years from the date when the impugned order dated 03.04.2017 came to be passed by the first respondent (Revisional Authority) and therefore, on the ground of laches as well, this writ petition is not maintainable.



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5. Admittedly, before the Enquiry Officer, the petitioner has not examined himself as a witness and he has only produced the Medical Certificate. The medical certificate, which the petitioner claims to have been produced before the Enquiry Officer has also been placed on record by the petitioner before this Court. However, the said medical certificate reveals that the petitioner was suffering from jaundice. It is a bald medical certificate without any particulars. A person suffering from jaundice in the normal circumstances whatsoever would normally be able to join the duty within a month or two. But, in the case on hand, the petitioner claims that based on the medical certificate, the respondents ought to have excused his absence from his duty for the period of eight months. Though the petitioner claims that apart from jaundice, he was also suffering from other medical ailments on account of an accident, there is no proof produced by the petitioner before the Enquiry Officer in support of the said contention. Since the medical certificate produced by the petitioner only reveals that he was suffering from jaundice, only based on preponderance of probabilities and that too only after considering the fact that the petitioner had remained absent from duty for a long period of eight months, the Enquiry Officer has come to the conclusion that the petitioner is guilty of his charges framed against him in the disciplinary proceedings, namely, his unauthorized absence for a period of eight months. This Court does not find



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any infirmity in the findings of the Enquiry Officer. If the petitioner's defence is a genuine one, he ought to have examined himself as a witness and enabled the respondents to cross-examine him with regard to his submission that he was suffering from medical ailments and only due to the said fact, he was unable to attend duty for a period of eight months. Having failed to do so, the contention of the petitioner cannot be entertained by this Court that too when there is no oral and documentary evidence produced by the petitioner in support of the petitioner's contention. The Disciplinary Authority only based on the enquiry report submitted by the Enquiry Officer finds the petitioner guilty of the charges framed against him in the disciplinary proceedings has come to the conclusion that the petitioner was liable to be imposed with the punishment of dismissing him from service.

6. This Court does not find any infirmity in the said findings of the Disciplinary Authority. Similarly, the Appellate Authority has rightly upheld the order of the Disciplinary Authority. Thereafter, the Revisional Authority has also upheld the orders passed by the Disciplinary Authority as well as the Appellate Authority under the impugned order dated 03.04.2017. This Court does not find any infirmity in the dismissal order of the Appellate Authority as well as the order of the Revisional Authority as well as the same was passed



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only on the findings rendered by the Enquiry Officer, which cannot be considered to be arbitrary and illegal as claimed by the petitioner. It is only based on the preponderance of probabilities, the Enquiry Officer has rendered the findings, which cannot be faulted with by this Court. However, the only infirmity noted by this Court in the order of the Disciplinary Authority imposing the punishment of dismissing the petitioner from service is that the Disciplinary Authority contrary to settled law has held that the order of dismissal takes into effect retrospectively from 16.09.2013 onwards, whereas, the dismissal order was passed by the Disciplinary Authority only on 15.04.2015.

7. As held by the Division Bench in the aforesaid decision relied upon by the learned counsel appearing for the petitioner, the law does not permit or recognise the order of dismissal or termination to be retrospective, as it shall only be from the date when the order was passed. Therefore, while dismissing the petitioner from service, the authorities, who are the respondents herein, ought not to have dismissed the petitioner retrospectively but only from the date of the order when the Disciplinary Authority imposed the punishment of dismissing the petitioner from service. Therefore, the date of dismissal of the petitioner from service ought to have taken into effect only from 15.04.2015 and not from 16.09.2013. Except for the said modification granted by this Court,



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the dismissal order passed by the authorities, who are the respondents herein, dismissing the petitioner from service, is a correct order and cannot be interfered with by this Court. Even though the petitioner has not raised grounds with regard to the erroneous findings rendered by the authorities, who are the respondents herein that the dismissal order will take into effect retrospectively, this Court is entertaining the same in view of the fact that the said ground is a legal issue, which requires consideration as per the settled law.

8. In view of the above observations, this Court confirms the order dismissing the petitioner from service, but, however, partially modifies the said order by holding that the petitioner is dismissed from service from 15.04.2015 instead of 16.09.2013.

9. With the aforesaid direction, this writ petition is disposed of. No costs.

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NCC:yes/no
Index:yes/no
Internet:yes/no
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ABDUL QUDDHOSE, J

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