



W.P.(MD)No.17047 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 17.09.2025

PRONOUNCED ON : 16.10.2025

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**  
AND  
THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

W.P.(MD)No.17047 of 2021  
and  
W.M.P.(MD)No.13978 of 2021

T.Ponprakash

...Petitioner

/Vs./

1. The Chief Secretary to Government,  
Public (Special-A) Department,  
Fort St. George,  
Chennai – 600 009.

2. The Registrar General,  
High Court of Madras,  
Chennai – 600 108.

...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in G.O.Ms.No.114 Public (Special A)



W.P.(MD)No.17047 of 2025

Department dated 08.02.2020 on the file of the Respondent No.1 and quash the same as illegal and consequently for a direction, directing the Respondent No.1 to grant all other consequential benefits within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy, Senior Counsel  
for M/s.Lajapathi Roy & Associates  
For Respondent : Mr.S.P.Maharajan (R1)  
Special Government Pleader  
Mr.D.Sivaraman (R2)  
Standing Counsel

### **ORDER**

(Order of the Court was made by **DR.ANITA SUMANTH, J.**)

This writ petition challenges an order in G.O.Ms.No.114 dated 08.02.2020. The petitioner had been appointed as Civil Judge (Junior Division) in Tamil Nadu State Judicial Service on 01.07.1991. While so, disciplinary proceedings had been initiated as against him, when he had been serving as Principal District Judge, Ramanathapuram.

2. Twelve charges had been framed vide charge memo dated



W.P.(MD)No.17047 of 2025

12.09.2016 after following proper procedure. The Departmental enquiry initiated had been completed by the Enquiring Judge, N.Sathish Kumar, J., Hon'ble Judge, Madras High Court, holding, vide Report dated 28.07.2017 that the second part of charge 1, part of charge 4 and charge 9 were proved. First part of charge 1, charges, 2, 3, first part of charge 4, charges 5, 6, 7, 8, 10, 11 and 12 were held as not proved. The petitioner was hence not permitted to retire from service on attaining superannuation on completion of 58 years on 31.03.2017.

3. The enquiry report was placed before the Administrative Committee of this Court on 31.01.2018 and it had been resolved to furnish a copy of the enquiry report to the Appellant and solicit his further representation. His response was placed before the Administrative Committee on 24.11.2019 and the committee did not find the explanation satisfactory, as the charges that had been held to be proved, pertained to exaction of consideration for the discharge of official functions and cogent evidence was available to establish the same and hold them to be proved.



W.P.(MD)No.17047 of 2025

WEB COPY

4. The Administrative Committee hence concluded that the petitioner was guilty of serious misconduct and having regard to the gravity of the charges, recommended major penalty of dismissal. The matter was directed to be placed before the Full Court and was so placed on 07.12.2019. The Full Court deliberated on the matter and after a detailed study of the records, including the charge memo, explanation submitted by the officer to the Registry, the proceedings before the Hon'ble Enquiring Judge, both on the part of the petitioner as well as the presenting officer, Mr.P.Rajamanickam, then Registrar (Judicial) Madras High Court, (since appointed as High Court Judge), the report of the enquiring Judge, and further explanation submitted by the petitioner before the Administrative Committee, were of the view that the recommendation of the Administrative Committee should be accepted. The petitioner was hence dismissed from service.

5. The entirety of the records were placed before the Hon'ble Governor, the appointing authority, and the Government, after examination of the matter and on the basis of the voluminous records,



W.P.(MD)No.17047 of 2025

accepted the recommendation of the High Court imposing the punishment of dismissal of service of the petitioner. G.O.Ms.No.114 dated 08.02.2020 thus came to be passed imposing the punishment of dismissal of service of the petitioner and it is that order has been challenged before us.

6. Mr.T.Lajapathi Roy, learned Senior counsel, who appears for M/s.Lajapathi Roy & Associates would not labour on the factual aspects of the matter and rightly so, as the facts have been adverted to in detail at various stages in the enquiry and there is no dispute on those aspects of the matter. The charges that had been held to be proved by the Hon'ble Enquiring Judge of the Madras High Court (being second part of charge 1, second part of charge 4 and charge 9) are thus not amenable to review by us, and before us, he would assail only the process by which the punishment of dismissal has been imposed.

7. The arguments are multi-pronged. Firstly, the petitioner submits that since the appointment of the Judicial Officer had been made under an order of the Hon'ble Governor, it is only for the the Hon'ble



W.P.(MD)No.17047 of 2025

Governor to have imposed the punishment. To this end, he points out that though the impugned order states that the dismissal was after independent examination or the matter by the Government, there is nothing to indicate such independent examination.

8. Secondly, he draws attention to the Resolution of the Full Court dated 07.12.2019 and the terminology used, being '*shall stand dismissed*'. He emphasizes that there is no right of appeal as against this order and hence, the petitioner is unduly prejudiced by the same. The bulwark of his submission is thus that there is no statutory appeal provided as against the order of dismissal and hence, the procedure for imposition of the punishment must be align with the gravity of the impact that it would have.

9. He relies on the judgments of the Constitution Bench of the Hon'ble Supreme Court in *State of West Bengal and Another vs. Nripendra Nath Bagchi*<sup>1</sup>, and of the Division Bench of the Hon'ble Supreme Court in *Hari Niwas Gupta vs. State of Bihar and Another*<sup>2</sup>.

10. Mr.Sivaraman, learned standing counsel for the Registrar

---

<sup>1</sup> AIR 1966 SC 447

<sup>2</sup> 2020 (3) SCC 153



**W.P.(MD)No.17047 of 2025**

General of this Court arrayed as R2, would not delve into the facts seeing as there is no avenue for judicial review in that regard and would draw attention to the meticulous attention to procedure, in the present matter.

11. We have heard both learned counsel and have studied the material papers.

12. It is a settled position that in matters involving judicial review of disciplinary proceedings, the Court will concern itself solely with the procedure followed and the decision making process, and not the decision itself. This position has been too well settled and all the more in this case, as the petitioner has himself not really contested the factual findings.

13. Be that as it may, we have also noted in the paragraphs supra that the facts in relation to the charges have been carefully assimilated and marshalled at three stages, by the Enquiry Judge, an Hon'ble Judge of this Court, the Full Court and thereafter, by the Hon'ble Governor. The question of taking a re-look into the facts afresh, thus does not arise.



W.P.(MD)No.17047 of 2025

14. We are hence solely concerned with the decision making process. The grievance of the petitioner has been that the view expressed by the Full Court has merely been accepted by the Employer. We disagree for the reason that the impugned order imposing the punishment of dismissal of service categorically states that the records have been adverted to, prior to such a decision having been taken. The assumption of the petitioner on this aspect is thus misconceived.

15. In *Nripendra Nath Bagchi*<sup>3</sup>, the challenge was by the State of West Bengal and Chief Secretary as against the decision of the Calcutta High Court quashing an order dismissing a Judicial Officer from service. The questions formulated before the High Court and those taken up for decision by the Hon'ble Supreme Court are as follows:-

“.....

(3).....*While making against the Judgement recommendation. N. Sinha J., drew up the points of controversy in the his case. They may be set down here:*

*"(1) That the previsions of Rule 75(a) of the West Bengal Service Rules have not been complied with.*

*(2) That the service of a civil servant cannot be extended merely for one purpose of*

---

<sup>3</sup> Footnote 1 supra



WEB COPY



W.P.(MD)No.17047 of 2025

*dismissal.*

*(3) That the control over the District Courts and the courts subordinate thereto are vested with the High court under Article 235 of the constitution, and the authority competent to take disciplinary proceedings and action against the petitioner or to deal with in any way was the High Court and not any other authority.*

*(4) That the provisions of the Civil Service (control, classification and appeal) Rules insofar as they authorise any authority other than the High court to take disciplinary action against other person holding the post of petitioner are ultra vires and void under Article 235 of the Constitution.*

*(5) That, in any event, the entire departmental enquiry and proceedings have been conducted in violation of the principle of natural justice.*

*4. At the final hearing this appeal was confined to the first three points the fourth point and the allegations about denial of natural justice were not discussed. The three points may be summarized into two (1) whether the enquiry ordered by the Government and conducted by an Executive Officer of the Government against a District & Sessions Judge contravened the provisions of Article 235 of the Constitution which vests in the High Court the control over the District Court and the courts subordinate thereto and (2) whether the provisions of Rule 75(a) West Bengal Service Rules could be utilized to extend the service of Bagchi beyond the normal age of retirement. On hearing arguments we are satisfied that the answer to both the questions must be against the Government."*



W.P.(MD)No.17047 of 2025

WEB COPY

16. On the second issue, relating to whether it is the duty of the High Court to hold an enquiry into the conduct of District Judges, the Bench refers to Chapter VI of the Constitution entitled 'subordinate Courts' specifically Articles 233 to 237 thereof. An elaborate discussion ensued and in conclusion, the Court has this to say in paragraphs 19 and 20, that read as follows:-

*“19. This argument was not presented in the High Court and does credit to the ingenuity of Mr Sen but it is fallacious. That the Governor appoints District Judges and the Governor alone can dismiss or remove them goes without saying. That does not impinge upon the control of the High Court. It only means that the High Court cannot appoint or dismiss or remove District Judges. In the same way the High Court cannot use the special jurisdiction conferred by the two provisos. The High Court cannot decide that it is not reasonably practicable to give a District Judge an opportunity of showing cause or that in the interest of the security of the State it is not expedient to give such an opportunity. This the Governor alone can decide. That certain powers are to be exercised by the Governor and not by the High Court does not necessarily take away other powers from the High Courts. The provisos can be given their full effect without giving rise to other implications. It is obvious that if a case arose for the exercise of the special powers under the two provisos, the High Court must leave the matter to the Governor. In this connection we may incidentally add that we have no doubt that in exercising these special powers in relation to inquiries against District Judges, the Governor will always have regard to the opinion of the High Court in the matter. This will be so whoever be the inquiring authority in the State. But this does not lead to the further conclusion that the High Court must not hold the enquiry any*



W.P.(MD)No.17047 of 2025

*more than that the Governor should personally hold the enquiry.*

*20. There is, therefore, nothing in Article 311 which compels the conclusion that the High Court is ousted of the jurisdiction to hold the enquiry if Article 235 vested such a power in it. In our judgment, the control which is vested in the High Court is a complete control subject only to the power of the Governor in the matter of appointment (including dismissal and removal) and posting and promotion of District Judges. Within the exercise of the control vested in the High Court, the High Court can hold enquiries, impose punishments other than dismissal or removal, subject however to the conditions of service, and a right of appeal if granted by the conditions of service, and to the giving of an opportunity of showing cause as required by clause (2) of Article 311 unless such opportunity is dispensed with by the Governor acting under the provisos (b) and (c) to that clause. The High Court alone could have held the enquiry in this case. To hold otherwise will be reverse the policy which has moved determinedly in this direction.”*

17. The breadth and width of control exercised by the High Court as envisaged under Article 311 of the Constitution has been considered by the Supreme Court in *Hari Niwas Gupta*<sup>4</sup> and it has been held that:-

*22. The expression/words “within the exercise of the control vested in the High Court, the High Court can hold enquiries, impose punishments other than dismissal or removal, subject however to the conditions of service, to a right of appeal if granted by the conditions of service, and to the giving of an opportunity of showing cause as required by clause (2) of Article 311 unless such opportunity is dispensed with by the Governor acting under the provisos (b) and (c) to*

---

<sup>4</sup> Footnote 2 supra



WEB COPY

*that clause” is not to deny the High Court the authority to decide whether conditions for invoking clause (b) of the second proviso to Article 311(2) are satisfied, but recognises that the resolution and recommendation of dismissal, removal or reduction in rank or for dispensing with the inquiry in terms of clause (b) [also clause (c)] of the second proviso to Article 311(2) would require an order of the Governor. The observations do not hold that the Governor, and not the High Court, is vested with the jurisdiction and is the competent authority to decide whether the inquiry should be dispensed with upon recording of satisfaction in terms of clause (b) of the second proviso to Article 311(2) of the Constitution. The decision refers to Article 235 of the Constitution and states that the control vests with the High Court, albeit order of appointment, dismissal or removal is passed and made in the name of the Governor who passes the formal order be it a case of appointment, dismissal or removal. This is clear from the last portion of paragraph 17 in Nirpendra Nath Bagchi (supra) which records “that the Governor will always have regard to the opinion of the High Court in the matter. This will be the inquiring authority in the State. But this does not lead to the further conclusion that the High Court must not hold the enquiry any more than that the Governor should personally hold the enquiry.”*

*23. This legal position with reference to Articles 233 to 236 and ‘control’ of the High Court is beyond doubt as was explained in Ajit Kumar v. State of Jharkhand<sup>12</sup> in the following words:*

*“15. The next contention raised by the appellant was that the aforesaid power under Article 311(2)(b) of the Constitution could not have been invoked by the High Court. The aforesaid submission also cannot be accepted in view of the fact that a Subordinate Judge is also a Judge within the meaning of the provision of Article 233 of the*



W.P.(MD)No.17047 of 2025

*Constitution of India read with the provisions of Articles 235 and 236 of the Constitution of India.*

*16. Article 233 clearly lays down that appointments and promotions of District Judges in any State are to be made by the Governor of the State in consultation with the High Court exercising jurisdiction in relation to such State. The aforesaid provision, like Articles 234 to 236, has been incorporated in the Constitution of India inter alia to secure the independence of the judiciary from the executive and the same deals with the scope of separation of power of the three wings of the State.*

*17. It cannot be disputed that the power under the aforesaid articles [Articles 233-236] is to be exercised by the Governor in consultation with the High Court. Under the scheme of the Indian Constitution the High Court is vested with the power to take decision for appointment of the subordinate judiciary under Articles 234 to 236 of the Constitution. The High Court is also vested with the power to see that the high traditions and standards of the judiciary are maintained by the selection of proper persons to run the District Judiciary. If a person is found not worthy to be a member of the judicial service or it is found that he has committed a misconduct he could be removed from the service by following the procedure laid down. Power could also be exercised for such dismissal or removal by following the preconditions as laid down under Article 311(2)(b) of the Constitution of India. Even for imposing a punishment of dismissal or removal or reduction in rank, the High Court can hold disciplinary proceedings and recommend such punishments. The Governor alone is competent to impose such punishment upon persons coming under Articles 233-235 read with Article 311(2) of the Constitution of India. Similarly, such*



W.P.(MD)No.17047 of 2025

*a power could be exercised by the High Court to dispense with an enquiry for a reason to be recorded in writing and such dispensation of an enquiry for valid reasons when recommended to the Governor, it is within the competence of the Governor to issue such orders in terms of the recommendation of the High Court in exercise of power under Article 311(2)(b) of the Constitution of India.” (emphasis supplied)”*

18. In the present case, the process that has been followed is transparent and ensuring adherence to the principles of natural justice at all stages. The decisions discussed above would only fortify our decision that the procedure followed in this case and the decision of the Hon'ble Governor in imposing the punishment of dismissal of service, having regard to the record and the opinion of the High Court, is perfectly in order.

19. The argument that the petitioner has been left remediless, is also fallacious, as the present proceedings assailing the decision of the Hon'ble Governor, stand testimony to the availability of an efficacious remedy.

20. In light of the discussion as above, we do not find any merit in this challenge and reject the same. This writ petition is



**W.P.(MD)No.17047 of 2025**

dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

**[A.S.M.J.] & [C.K.J.]**  
**16.10.2025**

NCC :Yes/No  
Index :Yes/No  
Internet :Yes  
sm



**W.P.(MD)No.17047 of 2025**

WEB COPY

TO:-

1. The Chief Secretary to Government,  
Public (Special-A) Department,  
Fort St. George,  
Chennai – 600 009.
2. The Registrar General,  
High Court of Madras,  
Chennai – 600 108.



WEB COPY



W.P.(MD)No.17047 of 2025

**DR.ANITA SUMANTH, J.**  
**AND**  
**C.KUMARAPPAN, J.**

sm

Pre-delivery Order made in  
**W.P.(MD)No.17047 of 2021**

Dated:  
**16.10.2025**