



W.A(MD)No.2339 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)No.2339 of 2025
and
C.M.P(MD)No.13239 of 2025**

- 1.The Director of Elementary Education,
Chennai.
- 2.The District Educational Officer (Elementary),
Pudukkottai.
- 3.The Accountant General,
Chennai.
- 4.The Sub-Treasury Officer,
Ponnamaravathy,
Pudukkottai District.
- 5.The Sub-Treasury Officer,
Karaikudi,
Sivagangai District.

... Appellants/Respondents

vs.

A.R.Ponnazhagu

... Respondent/Writ Petitioner

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PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 26.06.2023 passed in W.P(MD)No.25001 of 2022 on the file of this Court.

For Appellants : Mr.J.Ashok
Additional Government Pleader

For Respondent : Mr.P.Ganapathi Subramanian

JUDGMENT

(Judgment of the Court was delivered by S.M.SUBRAMANIAM, J.)

The present Writ Appeal, filed under Clause 15 of Letters Patent, has been instituted by the Director of Elementary Education and four other officials to assail the writ order dated 26.06.2023 passed in W.P(MD)No.25001 of 2022.

2.The respondent/Mr.A.R.Ponnazhagu filed a Writ Petition challenging the order of suspension passed on the eve of his retirement and the retention in service, enabling the authorities to complete the departmental disciplinary proceedings initiated against him.



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3.The writ Court has not adjudicated the issues in entirety but formed an opinion that the criminal case registered against the respondent was in the F.I.R stage and directed the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Pudukottai, to complete the investigation and file a final report within a period of four months. The writ Court further observed by stating that the writ Court had not gone into the merits of the matter, however, made a finding that if the respondent is exonerated in the final report filed in the criminal case, the suspension order has to be revoked and all the retirement benefits are to be disbursed in favour of the respondent.

4.In view of the above writ order, this Court is inclined to examine the legal position to be followed in a disciplinary proceedings initiated against the Government servants.



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5.Criminal proceedings and departmental proceedings can be initiated simultaneously and there is no bar. On registration of a criminal case, a Government servant may be placed under suspension under the Tamil Nadu Civil Services (Discipline and Appeal) Rules. During the pendency of the criminal proceedings, there is no bar to continue the departmental proceedings if the records are either available with the department or by collecting the records from the Investigating Officer or by getting certified copies from the criminal Courts where the records are filed. In essence, there is no bar for continuing the departmental disciplinary proceedings during the pendency of a criminal case. This position has been time and again reiterated by the Hon'ble Supreme Court in unequivocal terms and the Government also issued orders/guidelines directing the disciplinary authorities not to keep the departmental proceedings in abeyance during the pendency of the criminal case, except in cases where the departmental proceedings are unable to be continued for want of records.



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6. In the present case, no such exceptional circumstances existed when the writ order impugned was passed. The criminal case was in the F.I.R stage. It is unnecessary for the writ Court to direct the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Pudukottai to file a final report within four months in a Writ Petition filed challenging the order of suspension and the consequential order of retention of service passed by the competent authority continuing the services of the delinquent employee, since he was due to retire on attaining the age of superannuation.

7. The second finding of the writ Court that in the event of exoneration in the final report filed in consequent to the investigation, the retirement benefits are to be settled is also running counter to the legal position settled by the Hon'ble Supreme Court of India.

8. Criminal proceedings and departmental proceedings are distinct and different. Strict proof is required to convict a person in a criminal case. No such strict proof is required to punish an employee under



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the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Preponderance of probabilities are sufficient to punish a Government employee. Misconduct cannot be equated with criminal offences under the criminal law. A Government employee can be punished for misconduct even in case where the Vigilance and Anti-corruption has dropped further actions. In such a case, the department can proceed by framing charges and conduct an inquiry by following the procedures as contemplated under the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Thus, the procedures to be adopted in criminal cases are incomparable with the procedures to be followed in departmental disciplinary proceedings.

9. Even an acquittal in a criminal case is not a bar for continuing the departmental disciplinary proceedings. Acquittal cannot be taken as a ground for exoneration in the departmental disciplinary proceedings. Still, a Government servant can be punished under the Tamil Nadu Civil Services (Discipline and Appeal) Rules by following the procedures.



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10. In view of the above legal position settled by the constitutional Courts time and again, the findings of the writ Court are not in consonance with the settled legal principles. Hence, this Court is inclined to interfere with the impugned writ order.

11. Certain subsequent events have been brought to the notice of this Court that the Vigilance and Anti-Corruption Department has dropped the criminal case for want of evidence to proceed with the criminal trial. It was referred to the Tribunal for disciplinary proceedings. The charge memo framed by the Tribunal was once again challenged in the writ Court, which was allowed and the Writ Appeal was dismissed. It is for the department to initiate appropriate action in this regard, if they are advised to do so.

12. As far as the present Writ Appeal is concerned, the principles considered by the writ Court is running counter to the legal position settled by the Hon'ble Apex Court.



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13. Accordingly, the writ order impugned dated 26.06.2023 in W.P(MD)No.25001 of 2022 is set aside and the Writ Appeal stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[S.M.S.,J.] & [G.A.M.,J.]
18.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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S.M.SUBRAMANIAM, J.
and
G.ARUL MURUGAN, J.

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ORDER MADE IN
W.A(MD)No.2339 of 2025

DATED : 18.08.2025

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