



W.P.(MD)No.20278 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2025

CORAM

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.20278 of 2021

V.Pushparaj

: Petitioner

Vs.

- 1.The Principal Chief Security Commissioner,
Railway Protection Force,
Southern Railway,
Chennai – 600 003.
- 2.The Deputy Chief Security Commissioner & Appellate Authority,
Railway Protection Force,
Southern Railway,
Chennai – 600 003.
- 3.The Principal Security Commissioner,
Zonal Training Centre,
Railway Protection Force,
Kimber Garden,
Trichirappalli.



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4.The Assistant Security Commissioner & Discipline Authority,
Railway Protection Force,
Training Centre,
Kimber Garden,
Trichy – 620 023.

5.Inspector of Railway Protection Force &
Enquiry Officer,
Virudhachalam Railway Junction,
Trichirapalli Railway Division.

6.Inspector of Railway Protection Force &
Enquiry Officer,
Divisional Security Control Room,
Behind Divisional Railway Manager Office,
Madurai Railway Junction,
Madurai – 625 001.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of “Removal from service”, No.RPF/TC/P.227/DAR/HC-VP/2020/1061 dated 12.12.2020 issued by the Principal, Zonal training Centre, Railway Protection Force, Trichy, 3rd respondent herein and the impugned order, No.RPF/TC/P.



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227/2021/541 dated 08.06.2021 passed by the Appellate Authority, the Deputy Chief Security Commissioner, Southern Railway, 2nd respondent herein confirming the order of removal from service and quash the same as arbitrary, illegal, without authority, jurisdiction and against Provisions of Railway Protection Force Rules, 1987, Railway Servants (Discipline and Appeal) Rules, 1968 and Article 311 of the Constitution of India and to consequently direct the respondents 1 to 3 herein to reinstate the petitioner in his service with all attendant, consequential and monetary benefits.

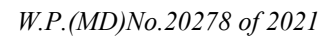
For Petitioner : Mr.K.Gurunathan

For Respondent No.1 : Mr.A.Rajaram,
SCGSC, for Mr.M.Prasad

For Respondents 2 to 6 : No appearance

ORDER

This Writ Petition has been filed challenging the impugned order dated 12.12.2020 passed by the third respondent imposing the punishment of removal from service on the petitioner.



a) the disciplinary authority has held that the petitioner is guilty of all the charges levelled against him which is contrary to the findings of the enquiry officer who has held that only Charge Nos.1, 2, 3, 4, 5, 6, 9 & 10 are alone proved. The disciplinary authority having disagreed with the findings of the enquiry officer ought to have put the petitioner on notice by providing an opportunity to the petitioner to submit his explanation but having not done so, the impugned order has to be set aside by this Court;

c) the so-called disciplinary authority who has imposed punishment on the petitioner is not the competent authority to impose punishment on the petitioner;

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e) the petitioner is not the sanctioning authority for purchase of canteen items as he is only a Head Constable;

f) a dual role has been played by the enquiry officer by acting both as a presenting officer as well as enquiry officer, which would amount to bias.

3. In support of the petitioner's contention that before disagreeing with the findings of the enquiry officer, the disciplinary authority ought to have given an opportunity of hearing to the petitioner, learned Counsel for the petitioner drew the attention of this Court to the judgment of the Hon'ble Supreme Court in the case of ***Lav Nigam Vs. Chairman & MD, ITI Ltd. and another*** reported in ***(2006) 9 SCC 440***.

4. Learned Counsel for the petitioner by relying upon the aforesaid decision would submit that as seen from the aforesaid decision, the enquiry officer as well as the presenting officer cannot be one and the same as is the case on hand.



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5.Learned Counsel for the petitioner also drew the attention of this Court to the Division Bench judgment of the Gujarat High Court dated 01.05.2020 in S.C.A.No.7466 of 2019. Learned Counsel for the petitioner would submit that even in the Gujarat High Court decision referred to supra, it was held that the enquiry officer who is supposed to act independently cannot act as a prosecutor which will result in bias.

6.Learned Counsel for the petitioner would submit that being a quasi-judicial authority, the respondents ought to have passed a reasoned order as reasons are the soul of justice. To support the said proposition, learned Counsel for the petitioner would rely upon the following authorities:

*"i) The decision rendered by the Hon'ble Supreme Court in the case of **G.Vallikumari Vs. Andhra Education Society and others** reported in (2010) 2 SCC 497.*

*ii) The decision rendered by the Hon'ble Supreme Court in the case of **Roop Singh Negi***



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***Vs. Punjab National Bank and others reported
in (2009) 2 SCC 570.”***

7. According to the learned Counsel for the petitioner, no reasons have been given by the disciplinary authority as to why the explanation submitted by the petitioner with regard to the adverse findings rendered by the enquiry officer has been rejected and therefore, he would submit that the aforesaid decisions squarely apply to the facts of the instant case.

8. Learned Counsel for the petitioner also submits that the so-called disciplinary authority who has passed the impugned order imposing the punishment of removing the petitioner from service is not the competent authority. In support of the said contention, learned Counsel for the petitioner drew the attention of this Court to the Railway Protection Force Rule, 1987 and in particular to Schedule – III and would submit that with regard to imposing the punishment of removal from service, the competent authority as per the Rules is either the Divisional Security Commissioner or Security Commissioner. However, he would submit that under the impugned



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punishment order removing the petitioner from service, the punishment order has been imposed by the third respondent, who is subordinate to the above referred officials.

9.In support of his contention that the punishment order cannot be passed by an authority who is not competent to issue the same, learned Counsel for the petitioner would once again rely upon the Division Bench judgment of the Gujarat High Court, referred to supra. Learned Counsel for the petitioner also submits that the charges framed against the petitioner are vague and other persons who are alleged to have been connected with the irregularity have not been charged in the disciplinary proceedings.

10.According to the learned Counsel for the petitioner, the petitioner alone has been charged by the respondents, even though the petitioner was not responsible for purchasing the stores items which are subject matter of the disciplinary proceedings. In support of the said contention, learned Counsel for the petitioner relied upon a circular dated 02.09.2009 issued by the Ministry of Railways bearing No.2008/Sec(Spl)/6/30 and would submit that as seen from



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the said circular, the petitioner is not the sanctioning authority as he is only a Head Constable, whereas even for sanctioning purchase of stores items for a limited value of Rs.5,000/-, the circular discloses that the sanctioning authority is ASC / Principal, who are superior officials to that of the petitioner.

11. Learned Counsel for the petitioner also drew the attention of this Court to the “Directive 48” issued by the Government of India, Ministry of Railways [Railway Board] on 22.01.2019 and would submit that as seen from Clauses 8.1 and 8.3, the supervision of the canteen is vested not with the petitioner but is vested with other persons mentioned in the circular.

12. A counter has been filed by the respondents before this Court stating as follows:

a) the petitioner did not raise any objection to the procedure followed by the enquiry officer in the disciplinary proceedings. The entire enquiry was conducted in accordance with RPF Rules, 1987, after giving reasonable opportunities to the petitioner and by duly following the said rules;



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b) only the competent authority has issued the charge memo and has also passed the impugned order and the same is only in accordance with the RPF rules, 1987;

c) as per schedule III of the RPF rules, both the Deputy Security Commissioner who is designated as the Principal [Security Commissioner] are competent authorities in disciplinary proceedings. The Deputy Security Commissioner is empowered to initiate disciplinary proceedings by issuing charge sheet, while the Principal [Deputy Security Commissioner] is authorised to impose the punishment of removal from service, which is classified as one of the major punishments;

d) only on account of the various irregularities committed by the petitioner in the purchase of canteen items and only based on the enquiry report, the disciplinary authority came to the finding that the petitioner is guilty of all the charges framed against him in the disciplinary proceedings;

e) the petitioner had committed various discrepancies in the handling of accounts by the petitioner as a canteen incharge, which includes improper maintenance of accounts and mishandling



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of cash. Being a serious misconduct, the punishment imposing removal from service cannot be considered to be disproportionate to the charges framed against the petitioner in the disciplinary proceedings;

f) principles of natural justice were strictly adhered to by the respondents in the disciplinary proceedings. The petitioner also failed to cross-examine the witnesses of the respondents in the disciplinary proceedings.

13.The legal issue that has been raised by the petitioner during the course of the arguments of the learned Counsel for the petitioner that the disciplinary authority ought to have given an opportunity for the petitioner to submit his explanation for disagreeing with the findings of the enquiry officer has been raised for the first time only during the course of the submissions made by the learned Counsel for the petitioner. The said ground has also not been raised in the grounds for filing this Writ Petition, challenging the impugned order. Being a legal issue, it is supported by the decision rendered by the Hon'ble supreme Court and that too, when the petitioner has been removed from service, this Court deems it fit



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to give one more opportunity for the petitioner to raise the same before the appellate authority who has dismissed the appeal filed by the petitioner aggrieved by the order of the disciplinary authority.

14.Admittedly, the enquiry officer in his enquiry report has held the petitioner guilty of only charge Nos.1, 2, 4, 5, 6, 9 & 10. However, admittedly, the disciplinary authority has disagreed with the findings of the enquiry officer, by holding that all the charges framed against the petitioner are found to be proved and has imposed the punishment of removing the petitioner from service. The petitioner also contends before this Court and had also contended before the appellate authority that he is not responsible for the purchase of the canteen items as he is only a Head Constable. The Hon'ble Supreme Court in the case of ***Lav Nigam Vs. Chairman & MD, ITI Ltd. and another*** reported in ***(2006) 9 SCC 440***, has also held that the enquiry officer as well as the presenting officer cannot be one and the same. Similarly in the decision relied upon by the learned Counsel for the petitioner namely the Division Bench judgment of the Gujarat High Court, a similar view was taken. In the case on hand, no presenting officer was appointed in the disciplinary



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proceedings and the same is also accepted in the counter filed by the respondents before this Court. However, it is the contention of the respondents that it is not obligatory on the part of the respondents to appoint a presenting officer in the enquiry proceedings.

15.Though the appellate authority in its order dated 11.11.2020, which is also impugned in this Writ Petition has considered various grounds raised by the petitioner in the grounds of appeal filed by the petitioner but has not considered the legal issue that is being raised by the petitioner for the first time before this Court namely that the disciplinary authority ought to have granted an opportunity for the petitioner to submit his explanation whatsoever, the disciplinary authority is disagreeing with the findings rendered by the enquiry officer. Being a legal issue and that too when the petitioner has been removed from service, in the interest of justice, this Court deems it fit to set aside the impugned order dated 08.06.2021 passed by the second respondent and remand the matter back to the second respondent for fresh consideration on merits and in accordance with law, by granting liberty to the petitioner to raise all the grounds which are earlier



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raised in the appeal and also to raise the ground namely that the disciplinary authority before disagreeing with the findings of the enquiry officer has to give an opportunity to the petitioner to submit his explanation and if not done, it will be contrary to the decision rendered by the Hon'ble Supreme Court in the case of ***Lav Nigam Vs. Chairman & MD, ITI Ltd. and another*** reported in ***(2006) 9 SCC 440***.

16.For the foregoing reasons, this Court for the present is not disturbing the impugned order passed by the disciplinary authority dated 12.12.2020, but instead quash the order of the appellate authority dated 08.06.2021, since the aforesaid legal issue was not considered by the appellate authority earlier and since the said issue was never raised by the petitioner in the grounds of appeal and this order of remand is based only in the interest of justice since the punishment imposed on the petitioner is removal from service which the petitioner claims has been passed contrary to law and is also disproportionate to the charges framed against the petitioner in the disciplinary proceedings.



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17.In the result, the impugned order dated 08.06.2021 passed by the second respondent is alone quashed and the matter is remanded back to the second respondent [appellate authority] for fresh consideration on merits and in accordance with law. The petitioner is permitted to file fresh grounds of appeal challenging the impugned order dated 12.12.2020 passed by the disciplinary authority [third respondent] and the same shall be filed by the petitioner within a period of two [2] weeks from the date of receipt of a copy of the order. The second respondent shall pass final orders on merits and in accordance with law within a period of twelve [12] weeks thereafter.

18.With the aforesaid direction, this Writ Petition stands disposed of. There shall be no order as to costs.

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Index :Yes / No
Internet : Yes / No
NCC : Yes/No
MR

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ABDUL QUDDHOSE., J.

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