

W.A.(MD)No.2339 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 28.04.2025

PRONOUNCED ON : 03.06.2025

CORAM:

THE HONOURABLE MRS.JUSTICE J. NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.A(MD)No.2339 of 2024
and
C.M.P.(MD)No.16170 of 2024

Senguttuvan

... Appellant

Vs.

1.The Principal Secretary to Government,
State of Tamil Nadu,
Office of Commercial Tax and Registration
(K) Department,
Fort St. George, Chennai-600 009.

2.The Inspector General of Registration,
Office of Inspector General of Registration,
Chennai-28.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.12224 of 2021, dated 06.11.2023.

For Appellant	:Mr.S.M.A.Jinnah
For Respondents	:Mr.N.Ramesh Arumugam Government Advocate



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JUDGMENT

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

The present writ appeal is preferred by the writ petitioner against the order dated 06.11.2023, passed in W.P.(MD)No.12224 of 2021.

2. The writ petition was filed for Certiorarified Mandamus, to quash G.O.(T).No.68, Commercial Tax and Registration (K) Department, dated 06.05.2019 and consequently, to direct the respondents to provide notional promotion to the post of District Registrar and to the post of Deputy Inspector General of Registration by placing the petitioner above his junior notionally and provide all consequential benefits.

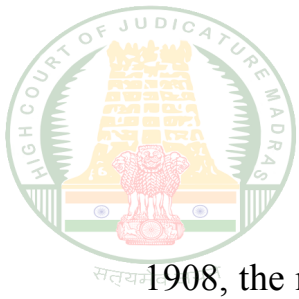
3. The writ petitioner is the appellant herein. The brief facts are that the writ petitioner was serving as Sub Registrar, while in service he was issued a charge memo, dated 31.12.2008, levelling 10 charges pertaining to the fraud committed by the parties while executing the registration of their documents. In the enquiry, the charges were held to be proved. But the contention of the writ



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petitioner is that without properly considering the case on merits and on the submissions of the writ petitioner, the charges were held to be proved. The respondents issued second show cause notice and the writ petitioner submitted a detailed reply. In spite of the same, the respondents imposed a punishment of stoppage of increment for three years with cumulative effect, vide order, dated 30.11.2009. The writ petitioner preferred an appeal and the same was rejected on 20.06.2013 and the punishment was modified from stoppage for increment for three years with cumulative effect without including the leave period to stoppage of increment for three years with cumulative effect including the leave period. The respondents rejected the appeal by relying on the report of TNPSC, dated 03.04.2013. But the said copy was not provided to the writ petitioner and the report was relied on behind the back thereby, violating the principles of natural justice. Further contention of the writ petitioner is that the punishment is disproportionate and the same is biased, but the said contention was not discussed by the appellate authority. Further the appellate authority had passed a non-speaking order which is against Rule 23 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules wherein it is mandated that the Appellate Authority has to consider various factors but none of the said factors provided therein were considered by the Appellate Authority. Under Section 52 of Registration Act,

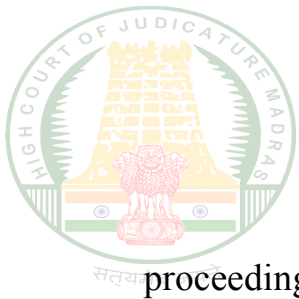


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1908, the registering authority was not mandated to verify the title and ownership of the person who alienates the property. The registering authority is bound to verify whether the stamp duty levied under document and the registration charges are paid by the person who wants to execute it and the registering authority cannot sit over the document questioning the title and ownership of the document. Therefore, the very charge itself is illegal. Hence, the writ petitioner filed W.P. (MD)No.13487 of 2014 and this Court, vide order, dated 07.12.2018, quashed the order of the appellate authority and remitted the matter back for fresh consideration. On remand, the respondents mechanically considered the appeal and rejected vide the impugned order. The Courts had held in several cases that Rule 23 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules ought to be followed by the appellate authority. In one such case, in W.P.(MD)No.20673 of 2004, the Court, vide order, dated 04.03.2019, has elaborately dealt with regarding Rule 23 and passed an order. The same is applicable to the writ petitioner as well. Since the same is not considered, hence the present writ petition.

4. The 2nd respondent has filed a counter affidavit wherein it is stated that apart from the present disciplinary proceedings, two more disciplinary



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proceedings were initiated against the petitioner and the same is extracted hereunder:

- “i. Recovery of the loss amount to the tune of Rs. 4,53,398/- from the pension of the petitioner was imposed vide Inspector General of Registration Order No.15055/B1/2019, dated 24.01.2020.*
- ii. Charges were framed under Rule 17(b) of Tamil Nadu Civil Services (Discipline & Appeal) Rules vide Inspector General of Registration Charge Memo NO.43384/B3/2005 dated 03.08.2005 in which recovery of the loss amount to the tune of Rs.1,55,841/- from the pension of the petitioner and a cut in pension to the tune of Rs. 100/- per month for two years was proposed to be imposed on the petitioner. As the petitioner did not give consent for the same, it has been forwarded to Tamil Nadu Public Service Commission as Rule 9 of Tamil Nadu Pension Rule.”*

The petitioner has committed serious mistake, hence the punishment of stoppage of increment was imposed. The petitioner was granted adequate opportunity and there is no violation of principles of natural justice. On appeal the appellate authority had considered the grounds, thereafter had passed the order modifying the punishment and the same is legally valid. Therefore, the punishment order cannot be interfered with and prayed to dismiss the writ petition.

5. After considering the rival submissions, the Writ Court has relied on



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the judgment passed in the case of *P.Sundar and others Vs. Special Tahsildar* reported in **CDJ 2012 MHC 855** wherein it is held that insufficient to scrutiny of documents and purposefully omitting effective scrutiny would pave way for illegal and fictitious transaction, such black sheep ought to be dealt with iron hand and held that the petitioner was imputed with 10 charges for the various irregularities and illegalities but the contention of the petitioner that he cannot be held liable for the fraud committed by the parties while executing the registration of documents cannot be accepted. And the same cannot be taken lightly. The contention of the petitioner that the Registrar Office is not mandated to verify the title and ownership of a person who alienates the property in terms of Section 52 of Registration Act cannot be accepted. Therefore, the Writ Court proceeded to confirm the punishment. Aggrieved over the same, the writ petitioner has preferred the present writ appeal.

6. Heard Mr.S.M.A.Jinnah, the Learned Counsel appearing for the appellant and Mr.N.Ramesh Arumugam, the Learned Counsel Government Advocate appearing for the respondents and perused the documents.

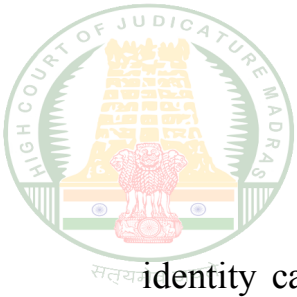
7. The petitioner was imputed with 10 charges. The Enquiry Officer had



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held that the 1st charge is partly proved, the 4th charge it is held it cannot be stated the petitioner had violated Rule 20(1), the charges 5 and 6 are held not proved, 9 and 10 may be taken as proved, the charges 2,3,7,8 are proved. The 1st charge against the petitioner is that the petitioner has not scrutinised the identity card with the person appeared before him. There were three persons before the petitioner, in which the identity of two persons were correct, but only one person namely Thangaraj, wherein his father's name was Muthu and he knows to affix signature but he had affixed thumb impression. The delinquent had not enquired about the father's name and he knows to affix signature. The 2nd charge against the petitioner is that when there are several persons who had executed power of attorney, one person's photo alone varies. Then there is a reference of registered power of attorney, it is found that the said registration was not done in the said registration office, however the petitioner had relied on the said registered power of attorney and proceeded to register the document, thereby failed to verify the veracity of the document and failed in his duties. Further the identity cards are not available in the office file and the driving license number varies. The petitioner failed to verify the initial of the person who executed the document. From the above narration it is evident that the lapses vary from not verifying the initial of the executor to non-availability of identity cards. Except the non-availability of



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identity cards, other are minor mistakes and the same may not be stated under deliberate mistakes. As far as the non-availability of identity cards the petitioner submitted as explanation stating that another employee namely Tmt.R. Ramathilagam had taken those identity cards and given it to the District Crime Branch, further the same was taken when there was no electricity and in the absence of the petitioner in the office. Therefore, the same also cannot be stated as deliberate mistake. However, the petitioner had failed in his supervisory duty.

8. Further when the documents were registered some lapses may be there. But for such lapses the disciplinary authority ought to impose the proportionate punishment. But the Writ Court had rendered a finding that the said lapses had led to committing fraud by the brokers, hence the punishment is legally valid. This Court is of the considered opinion the punishment ought to be imposed for the lapses committed by the delinquent. But the punishment cannot be imposed for the fraud committed by the brokers. Therefore, this Court is holding that the punishment is disproportionate.

9. The petitioner being Sub Registrar has acted in his quasi-judicial capacity. The petitioner is mandated only to verify the identification of the parties.

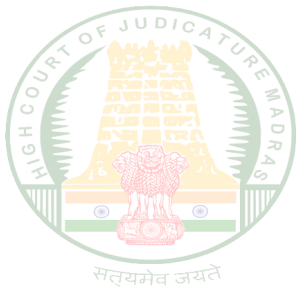


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He cannot scrutinize the documents that is presented before him to verify whether the party is the owner of the property and has title to the documents. If such power is granted to the Sub Registrar, then it would amount to making the Sub Registrar function as Civil Court. Even if the presenting person is not having title and is committing fraud, then also the Sub Registrar cannot ascertain the title of the executor. But the Writ Court has erroneously held that the writ petitioner is bound to scrutinize the title and ownership of the executor and it is totally against Section 52 of the Registration Act as well as several judgments rendered by the High Court.

10. The next contention of the petitioner is that the impugned order in the writ petition is a non-speaking order. Even after remand, the respondents have relied on the TNPSC opinion and passed the impugned order in the writ petition. On perusal of the appellate authority order it is seen that the appellate authority had not stated any reasons. In the earlier round of litigation, the petitioner challenged the appellate authority order as non-speaking order, hence the case was remitted back. Even then the appellant authority had not passed any reasoned order.



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11. If the petitioner has really committed fraud, the respondents would have imposed a major punishment of dismissal from service. When the punishment is stoppage of increment, then it is evident that the petitioner had not committed any fraud. Further the fact that the petitioner was imposed with two more punishments cannot be a criterion to come to the conclusion that the present mistake is also committed by the petitioner deliberately. It is not clear whether the petitioner challenged the other two punishments imposed in other disciplinary proceedings.

12. On perusal of the charges, it is seen that the petitioner has failed to verify whether the power of attorney was subsisting and the other charges are minor in nature. Even though the respondents termed the same as fraud, there is no element of fraud. Therefore, this Court is of the considered opinion that the punishment is absolutely disproportionate. Having held so, the matter ought to have been remitted back to the authorities. However, it is seen that the petitioner has attained superannuation and has retired from service at the time of filing the writ petition itself. Therefore, there will not be any useful purpose, if the matter is remitted back. Therefore, this Court is inclined to modify the punishment as



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stoppage of increment for a period of one year without cumulative effect.

Consequently, the petitioner is entitled to the benefits, based on the modified punishment and the same may be granted to the petitioner within a period of eight weeks from the date of receipt of a copy of this judgment.

13. With the above said directions, the writ appeal is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

[J.N.B., J.] [S.S.Y., J.]
03.06.2025

Index : Yes / No

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To:

1.The Principal Secretary to Government,
State of Tamil Nadu,
Office of Commercial Tax and Registration
(K) Department,
Fort St.George, Chennai-600 009.

2.The Inspector General of Registration,
Office of Inspector General of Registration,
Chennai-28.



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