



WP.(MD)No.22823 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.12.2025

CORAM :

**THE HON`BLE MR.JUSTICE B.PUGALENDHI**

WP.(MD)No.22823 of 2024

and

W.M.P.(MD) No.19346 of 2024

D.Ganesan

... Petitioner

Vs

1.District Elementary Education Officer,  
Office of the District Elementary Education Officer,  
R.M.S. Road,  
Madurai.

2.Block Elementary Education Officer,  
Vadipatti Union,  
Madurai.

... Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the records related to the impugned Charge Memo issued by the 1st Respondent in Na.Ka.No. 3472/B2/2024 dated 02.09.2024 and quash the same as illegal and pass such further or other orders as this Honble Court may deem fit and proper in the circumstances of the case and thus render justice.



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For Petitioner : Mr. K.Muthu Ganesa Pandian  
For Respondents : Mr.M.Sarangan  
Additional Government Pleader

### **ORDER**

The petitioner has filed this writ petition challenging the charge memo dated 02.09.2024.

2.The petitioner is working as a Headmaster in Primary Union Middle School. He was issued with the charge memo that he has borrowed a sum of Rs.6,30,000/- without informing the Department and the cheque issued by him was also defaulted. In view of the same, he was convicted under the provisions of Section 138 of the Negotiable Instruments Act and punishment was also imposed on him by the learned Judicial Magistrate Court II, Madurai in STC.No.191 of 2016. The order of punishment was also confirmed by the appellate Court in CrI.A.No.48 of 2024. The revision filed by the petitioner before this Court in CRL.RC.(MD)No.364 of 2024 is pending.



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WEB COPY 3.The learned counsel appearing for the petitioner has requested adjournment.

4.Mr.T.S.Mohammed Mohideen, learned counsel, who is present before this Court, has placed reliance of the judgment passed by this Court in WP.(MD)No.5002 of 2024 dated 05.09.2024 and submits that these type of commercial transaction cannot be considered to be a criminal case and this Court has set aside the similar charge memo issued as against another delinquent. The relevant portion of the above said judgment is extracted hereunder:-

*11.In the judgment of the Hon'ble Supreme Court reported in (2011) 4 Supreme Court Cases 593 (Kaushalya Devi Massand Vs- Roopkishore Khore), while considering the nature of offence under Section 138 of Negotiable Instruments Act, in paragraph No.11, it is held as follows:*

*"11. Having considered the submissions made on*



*behalf of the parties, we are of the view that the gravity of a complaint under the Negotiable Instruments Act cannot be equated with an offence under the provisions of the Penal Code, 1860 or other criminal offences. An offence under Section 138 of the Negotiable Instruments Act, 1881, is almost in the nature of a civil wrong which has been given criminal overtones.*

5.He has also produced another judgment in WP.(MD)No. 24101 of 2025 dated 13.10.2025 wherein this Court has set aside the similar charge memo as under:-

*5.Admittedly, the petitioner had been convicted under the provisions of Section 138 of Negotiable Instruments Act. This Court in WP.(MD).No.5002 of 2024 dated 05.09.2024 had considering various judgements of the Hon'ble Apex Court, the Division Bench of this Court had given a categorical finding that a conviction under Section 138 of Negotiable Instruments Act cannot be termed as an offence, involving moral turpitude and held that the charge memo issued on that ground against the petitioner therein as unseasonable. The*



*Pension rules provides that a person failure to have future good conduct would disentitle him from receiving the pension. Section 138 of Negotiable Instruments Act arises out of contractual dispute between the parties. Involvement cannot be said to be an offence which affect the conduct of the person. Such conduct cannot be also implied to affect his good conduct. This Court also finds no reason to differ with the view taken by the learned Judge in the aforesaid judgement to hold that the petitioner's conduct can be said to be not good to deny the pension.*

*6. In such view of the matter, the impugned order herein is quashed and the respondents are directed to release the pension to the petitioner and also pay the arrears of pension if any within a period of twelve weeks from the date of receipt of copy of this order.*

*7. With the above directions, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.*

6. In view of the above decisions of this Court, the charge memo impugned in this writ petition dated 02.09.2024 is set aside and this writ petition is allowed. This Court also places its



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appreciation to Mr.T.S.Mohammed Mohideen, learned counsel.

No costs. Consequently, connected miscellaneous petition is closed.

16.12.2025

NCC : Yes/No

Index : Yes/No

Internet:Yes

gns

To

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**B.PUGALENDHI,J**

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