

W.P(MD) No.20553 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 30.04.2025

CORAM

THE HON'BLE MS.JUSTICE R. POORNIMA

W.P(MD) No.20553 of 2016

and

W.M.P(MD)Nos.14711 & 14712 of 2016

M.Chandrasekar

... Petitioner

Vs

1.The Director of Public Libraries,
No. 737/1, Anna Salai,
Chennai - 600 002.

2.The District Library Officer (In Charge),
District Library Office, No.2,
Brammatheertham Salai,
Karur - 639 001,
Karur District.



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3.The Inquiry Officer

Superintendent,

District Library Office,

Trichirapalli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Charge Memo Ref.Na.Ka.No. 3484/Aa/2014 dated 14.01.2015 on the file of Respondent No.2, impugned Report of Findings of the Inquiry officer dated 15.03.2016 on the file of Respondent No.3 forwarded vide R.C.No.3484/B/2014 dated 31.03.2016 on the file of Respondent No.2 and consequential impugned order of punishment imposed in Na.Ka.3484/Aa/2014 dated 12.07.2016 on the file of the Respondent No.2 and quash the same as illegal and consequently to direct the respondents 1 and 2 to restore all attendant benefits.

For Petitioner : Mr.G.Karthik

For Respondents : Mr.M.Siddharthan

Additional Government Pleader



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ORDER

This Writ Petition is filed by the petitioner with a prayer to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Charge Memo Ref. Na.Ka.No.3484/Aa/2014 dated 14.01.2015 on the file of Respondent No.2, impugned Report of Findings of the Inquiry officer dated 15.03.2016 on the file of Respondent No.3 forwarded vide R.C.No.3484/B/2014 dated 31.03.2016 on the file of Respondent No.2 and consequential impugned order of punishment imposed in Na.Ka. 3484/Aa/2014 dated 12.07.2016 on the file of the Respondent No.2 and quash the same as illegal and consequently to direct the respondents 1 and 2 to restore all attendant benefits.

2. The case of the petitioner in brief are as follows:

(a) The petitioner was initially appointed as a Village Librarian and promoted to Librarian Grade III and working at Vettamangalam Library. He was a trade union office bearer and he used to bring to the knowledge of the authorities the problem faced by the employees.



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(b) Suddenly the petitioner was suspended on 31.12.2014 though he was not committed any misconduct. Charge memo in Ref.Na.Ka.3484/Aa/2014 was issued by the 2nd respondent on 14.01.2015. In the instant case, the Disciplinary Authority was only a District Library Officer (In-charge) who was delegated with powers as per proceedings Ref.Na.Ka.No.5876/A1/2008 of respondent No.1 did not have any power to initiate disciplinary conferred upon him. The 2nd Respondent was in-charge officer of the said post. He has no authority to issue the charge memo.

(c) After conducting the enquiry, the 2nd respondent forwarded the impugned Findings of the inquiry officer annexing his communication, Ref.Na.Ka.3484/Aa/2014 dated 31.03.2016 and an opportunity was given to the petitioner. Without considering the petitioner's submission, the Enquiry Officer has come to a pre-conclusion to agree with the findings that he was guilty of charges framed against him and issued the impugned order dated 12.07.2016.

(d) The punishment of stoppage of increment for 3 years with cumulative effect has been imposed by the 2nd respondent invoking



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the provisions of Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, without any jurisdiction.

(e) The Enquiry Officer has not applied his mind in concluding that the charges have been proved against him and the Disciplinary Authority also failed to consider his detailed submissions made refuting the charges and the impugned order has been mechanically passed in an arbitrary manner without adhering to the principles of equity and natural justice and filed this writ petition under Article 227 of the Constitution of India in the following among other grounds:-

1. The disciplinary authority who was not delegated power to issue Charge Memo, Order of Punishment, and the same is without Jurisdiction, visitating the disciplinary proceedings relied the Judgement in ***Central Bank of India vs. C. Bernard*** reported in ***1991 (1) SCC 319*** as follows:-

"...2. In the instant case, the impugned order of punishment was quashed not because the merits of the case so demanded but because the technical plea of incompetence succeeded.

Therefore, the High Court was right in quashing the impugned Order of punishment but having regard



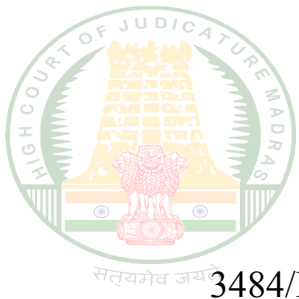
to the special facts and circumstances of the case, it should not have ordered payment of 'all consequential benefits' flowing from the declaration that the impugned order was bad in law. The order of the High Court is modified to the extent that the respondent will be paid 50% of the consequential benefits and not all the consequential benefits. Except for this modification, the rest of the order of the High Court will stand."

2. The disciplinary proceedings failed to consider his detailed representation and perused the impugned order mechanically.

3. The order perused without following the Rule 18 (b) of Tamil Nadu Civil Service (Disciplinary and Appeals) Rules.

4. Before hearing the representation of the petitioner in the finding of enquiry officer come to pre conclusion which is biased, perverse liable to be set aside.

(f) Hence the petitioner prayed to quash the Charge Memo Ref.Na.Ka.No.3484/Aa/2014 dated 14.01.2015 on the file of Respondent No.2, impugned Report of Findings of the Inquiry officer dated 15.03.2016 on the file of Respondent No.3 forwarded vide R.C.No.



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3484/B/2014 dated 31.03.2016 on the file of Respondent No.2 and consequential impugned order of punishment imposed in Na.Ka. 3484/Aa/2014 dated 12.07.2016 on the file of the Respondent No.2 and consequently to direct the respondents 1 and 2 to restore all attendant benefits.

3. The counter averments filed by the second respondent are as follows:

(a) According to the service/adhoc Rules Article 309, the posts of Librarian Grade-III, Plumber, Electrician, Record Clerk, Film Operator, Sergeant, Binder and Binding Assistant which are in the Local Library Authority only falls under the administrative powers of District Library Officer and the rest viz., Inspector of Public Libraries, Librarian Grade-I, Librarian Grade-II, Stock Verification Officer, Building Supervisor, Building Maistry, Driver, Superintendent, Assistant, Accountant, Head Clerk, Junior Assistant, Typist etc. which are in the Local Library Authority are falls with the administrative powers of Director of Public Libraries.



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(b) According to G.O.Ms.No.60, School Education (K2)

Department, Dated 27.04.2006, the appointing/disciplinary authority for the post of Librarian Grade-III is District Library Officer and Higher/appellant authority is Director of Public Libraries for that post. According to the service rules, the post of Inspector of Public Libraries and Librarian Grade-I are the feeder post to the District Library Officer. Often some time, causing administrative reasons the Inspector of Public Libraries or Librarian Grade-I has appointed as in-charge to the post of District Library Officer. Therefore, the Director of Public Libraries was delegated all kinds of powers for better administration to the in-charge District Library Officer in his proceedings Na.Ka.No.4469/A1/2006, dated 23.08.2006 and Na.Ka.No.5876/A1/2008, dated 13.03.2008 to act as the regular District Library Officer. In particularly, the Director of Public Libraries empowered the 2nd respondent to take action as per The Tamil Nadu Civil Services (Discipline and Appeal) Rules against the petitioner Thiru.M.Chandrasekar in his proceedings Na.Ka.No. 8226/A3/2014, dated 23.12.2014. Therefore, the 2nd respondent is the competent authority to initiate disciplinary proceedings against the



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petitioner.

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(c) Even though, a provision is in exist in Rule 19 of Tamil Nadu Civil Services (Discipline and Appeal) Rules, the aggrieved person may prefer an appeal before the concerned appellate authority within the prescribed time, but the petitioner failed to claim his rights. Therefore, the writ petition deserves no merits and not maintainable either in law or on facts. Hence, prayed to dismiss the writ petition.

5. Heard the learned counsel on either side and perused the materials available on record.

6. On perusal of the records it reveals that the disciplinary proceedings were initiated against the petitioner under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, pursuant to the proceedings of the District Library Officer in Na.Ka.No.3484/Aa/2014 dated 12.07.2014 where in 15 charges were framed against him.



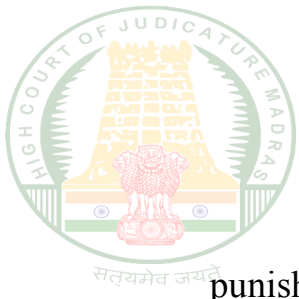
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7. An Enquiry Officer was appointed to conduct the enquiry and the Enquiry Officer vide report dated 15.03.2016 held that all the charges against the delinquent / petitioner was proved.

8. Further representation was called as per proceedings dated 31.03.2016 by the District Library Officer (i/c), Karur and the petitioner submitted his further representation on 11.04.2016 and the same was rejected. Based on the findings of the Enquiry officer the District Librarian vide his proceedings No.3484/Aa/2014 dated 12.07.2014, imposed the punishment by with holding 3 increments for the year 01.10.2016, 01.10.2017 and 01.10.2018 with cumulative effect and ordered to deduct a sum of Rs.17,466/- towards the loss caused by the delinquent.

9. Aggrieved by the said punishment the petitioner filed the present writ petition, primarily contending that the disciplinary authority viz., District Library Officer (in-charge) did not possess the authority to exercise disciplinary power and the entire proceedings culminating the



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punishment are vitiated by lack of Jurisdiction.

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10. In response, the learned Additional Government Pleader argued that the District Librarian (incharge), Karur vide his Letter Na.Ka.No.3484/A3/204 dated 14.10.2014 sought permission to initiate disciplinary proceedings for which the Director of Public Library in his letter Na.Ka.No.8220/A3/2014 dated 23.12.2014 permitting him to initiate proceedings and submitted the copy of proceedings same. Based on that, he issued charge memo Na.Ka.No.3484/Aa/2014 dated 14.01.2025 subsequently he had issued proceedings vide Rc.No. 8226/A3/2014 dated 30.12.2013 appointed Thiru.R.Somasundaram, Superintendent of District Library as Enquiry Officer to enquire into matter. He further referred proceedings of the Director of Public Library vide Na.Ka.No.8226/A3/2014 dated 24.03.2016 to empower the 2nd respondent him to pass final order.

11. Further the delinquent did not challenge the authority of the disciplinary authority at the time of the proceedings and participated without objection then raising such a challenge on a later stage of an



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adverse outcome is not legal and his participation without protest implies acceptance of the authorities Jurisdiction and estopped from questioning the same.

12. Therefore, the contention of the petitioner is that the second respondent has no authority or jurisdiction to initiate disciplinary proceedings and to impose punishment is not sustainable.

13. This Court further observed at every stage of disciplinary proceedings, he was afforded a fair and reasonable opportunity to participate in the proceedings. It is the contention that punishment was imposed before that before he could submit his further representation is factual incorrect. Records indicates that the petitioner submitted his further representation dated on 11.04.2016 where as the punishment was imposed on 21.07.2016, after due consideration of his representation.

14. Further in the final order dated 12.07.2016 imposing punishment, the petitioner was granted liberty to prefer an appeal before



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the appropriate authority within a period of two months. However without availing the remedy of appeal or review before the competent authority, the petitioner directly approached this Court for issuing a Writ of Certiorarified Mandamus to quash the impugned orders and to restore all attendant benefits, such a course of action by passing the statutory remedy is impermissible and on this ground alone and the writ petition is liable to be dismissed. There is no ground to interfere with the impugned orders. Hence, the writ petition is liable to be dismissed.

15. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

30.04.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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To

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R.POORNIMA, J.

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