

W.A.(MD)No.2475 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.06.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)No.2475 of 2024
and
C.M.P.(MD)No.17322 of 2024**

The District Collector,
Sivagangai District.

... Appellant

Vs.

K.Chellamuthu

... Respondent

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.11982 of 2024 dated 07.06.2024 on the file of this Court.

For Appellant : Mr.A.Kannan,
Addl. Government Pleader.

For Respondent : Mr.T.Lajapathy Roy, Senior Counsel,
For Mr.T.Aswin Raja Simman.



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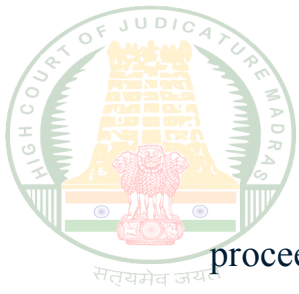


W.A.(MD)No.2475 of 2024

JUDGMENT
(By G.R.SWAMINATHAN, J.)

This writ appeal is directed against the order dated 07.06.2024 made in WP(MD)No.11982 of 2024 filed by the respondent herein (Chellamuthu).

2.Chellamuthu was working as Zonal Deputy Tahsildar from 22.07.2017 to 11.10.2020 in Thirupuvanam Taluk. He had issued joint patta by including the name of one Mayan, S/o.Sundararasu in Patta No. 2727. Chellamuthu was to retire from service on 31.05.2024. One day prior to his retirement, the impugned charge memo was issued. On 30.05.2024, the District Collector, Sivagangai even while permitting Chellamuthu to retire from service on his reaching the age of superannuation on the afternoon of 31.05.2024, made it clear that that would be without prejudice to the pending disciplinary proceedings. The disciplinary proceedings were ordered to be continued under Rule 9 of the Tamil Nadu Pension Rules, 1978. Challenging the charge memo as well as the proceeding dated 30.05.2024, Chellamuthu filed W.P.(MD)No.11982 of 2024. The learned Single Judge quashed both the



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proceedings and directed the authorities to permit the writ petitioner to retire from service with all attendant benefits. Challenging the same, the District Collector, Sivagangai has filed this writ appeal.

3.The learned Additional Government Pleader for the appellant reiterated all the contentions set out in the grounds of the writ appeal. He pointed out that the charge memo could not have been quashed by the learned Single Judge. According to him, the writ petitioner had usurped the power of District Revenue Officer while issuing the joint patta. He, therefore, called upon this Court to set aside the impugned order.

4.Per contra, the learned Senior Counsel for the writ petitioner submitted that issuance of patta partakes the character of a quasi judicial function and since in the charge memo, there is no allegation that the writ petitioner had acted out of corrupt motive, he could not have been visited with any charge memo. He relied on the decision of the Hon'ble Supreme Court reported in **2025 LiveLaw (SC) 376 (Amresh Shrivastava Vs. The State of Madhya Pradesh)**. He called upon this Court to sustain the order of the learned Single Judge.



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5. We carefully considered the rival contentions and went through the materials on record. Issuance of patta sometimes may partake the character of a quasi judicial function. But it is not correct to contend that persons engaged in discharge of such functions enjoy immunity. The Hon'ble Supreme Court in the decision reported in **(1993) 2 SCC 56 (Union of India Vs. K.K.Dhawan)** carved out the following situations where the government is not precluded from taking disciplinary actions for violation of the Code of Conduct: -

- “(i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;
- (ii) **If there is prima facie material to show recklessness or misconduct in the discharge of his duty;**
- (iii) if he has acted in a manner which is unbecoming of a Government servant;
- (iv) if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;
- (v) if he had acted in order to unduly favour a party;
- (vi) if he had been actuated by corrupt motive however, small the bribe may be because Lord Coke said long ago “though the bribe may be small, yet the fault is great.”

It was held that if while exercising quasi judicial function, a person acts in a reckless manner, disciplinary action can be taken. The facts on hand



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is clearly distinguishable from the facts in *Amresh Shrivastava Vs. The State of Madhya Pradesh*. In *Amresh Shrivastava*, the Hon'ble Supreme

Court held as follows:

“16.It appears that the order has been passed in good faith, without any indication of dishonesty. Furthermore, the facts outlined in the Show Cause Notice do not suggest any such impropriety. The power exercised by the Appellant **in his capacity as a Tehsildar**, while passing the order of Land Settlement Order, cannot be considered of a nature that would warrant disciplinary proceedings against him.”

It is well settled that merely because the order is wrong or the action taken could have been different, it does not warrant initiation of disciplinary proceedings against the judicial or quasi judicial officer. However, admittedly, in the case on hand, the writ petitioner was dealing with a UDR mistake. It is well settled that a UDR mistake can be corrected only by the District Revenue Officer. Therefore, on the face of it, the writ petitioner appears to have assumed the role of the District Revenue Officer and issued joint patta. Hence, the case on hand will prima facie fall within the parameters laid down in *K.K.Dhawan (supra)*. Therefore, issuance of charge memo cannot be held to be without jurisdiction. We therefore set aside the order of the learned Single Judge.



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6. Before we come back to the facts of the case, a jurisprudential detour may be in order. As already mentioned, the sheet anchor of the stand of the writ petitioner is the decision rendered in ***Amresh Shrivastava Vs. The State of Madhya Pradesh***. This decision is based on an earlier ruling in ***Zunjarrao Bhikaji Nagarkar vs. Union of India (AIR 1999 SC 2881)***. It was held therein that a wrong exercise of jurisdiction by a quasi judicial authority cannot form basis for initiating disciplinary proceedings. ***Zunjarrao*** is by a Two Judges Bench. ***K.K.Dhawan*** on the other hand is by a Three Judges Bench. In ***Zunjarrao***, though there is reference to ***K.K.Dhawan***, no endeavour was made to find out if the facts therein fell within the parameters laid down in ***K.K.Dhawan***. In fact, in ***K.K.Dhawan***, it was further observed that the instances catalogued therein were not exhaustive. It was further added that for a mere technical violation or merely because the order is wrong, disciplinary action would not be warranted. It was observed that each case will depend upon the facts and no absolute rule can be postulated. In ***UOI v. Duli Chand (2006) 5 SCC 680***, ***K.K.Dhawan*** was followed and it was held as follows :



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“7. The decision in *K.K. Dhawan case* [(1993) 2 SCC 56 : was considered by this Court and followed in *Govt. of T.N. v. K.N. Ramamurthy* [(1997) 7 SCC 101. In that case the Tribunal had set aside the order imposing punishment on an officer who had been discharging judicial functions. The Court was of the view that the Tribunal's action was contrary to the several judgments of this Court and the settled law on the question.

8. In 1999 another Bench of two Judges in *Zunjarrao Bhikaji Nagarkar* [(1999) 7 SCC 409 considered and referred to these earlier decisions. However, the Court appears to have reverted back to the earlier view of the matter where disciplinary action could be taken against an officer discharging judicial functions only where there was an element of culpability involved. Since in that particular case there was no evidence whatsoever that the employee had shown any favour to the assessee to whom refund had been made, it was held that the proceedings against him would not lie. In fact the Court set aside the disciplinary proceedings at the stage of the issuance of charge-sheet to the charged officer.

9. In our opinion, *Nagarkar case* [(1999) 7 SCC 409 : was contrary to the view expressed in *K.K. Dhawan case*. The decision in *K.K. Dhawan* [(1993) 2 SCC 56 being that of a larger Bench would prevail. The decision in *Nagarkar case* [(1999) 7 SCC 409 : therefore does not correctly represent the law...”



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7. Even though **Zunjarrao Nagarkar** was overruled by a Three Judges Bench, subsequently in **Inspector Prem Chand vs. Government of NCT of Delhi (2007) 4 SCC 566**, **Zunjarrao Nagarkar** was followed. Justice Markandeya Katju was a party to both Duli Chand as well as Prem Chand. But to be fair to the Hon'ble Judge, Zunjarrao was followed for some other proposition. **Ramesh Chander Singh v. High Court of Allahabad (2007) 4 SCC 247** is by a Three Judges Bench. Zunjarrao is cited for the proposition that wrong exercise of jurisdiction by quasi judicial authority or mistake of law or wrong interpretation of law cannot be the basis for initiating disciplinary proceedings. It was however added that if the judicial officer conducted in a manner as would reflect on his reputation or integrity or good faith or there is a prima facie material to show recklessness or misconduct in discharge of his duties or he had acted in a manner to unduly favor a party or had passed an order actuated by corrupt motive, disciplinary action can be taken.

8. We can therefore safely conclude that it is time to bury Zunjarrao and go by the parameters laid down in K.K.Dhawan or Ramesh Chander Singh. We say so because we find that Zunjarrao continues to be relied upon without noticing that it has already been overruled.

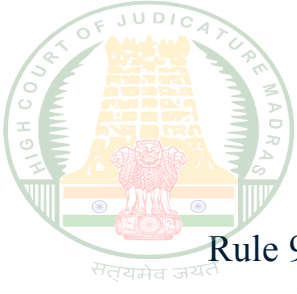


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9.Let us come back to the facts on hand, we do not want to lose sight of the mitigating factors in favor of the writ petitioner. From the materials on record, we find that the revenue record originally reflected the name of one Periyar Pillai Ambalam and Sundararasu. Periyar Pillai's son is Karuppu. During UDR, Karuppu's name alone was shown. The name of Sundararasu was omitted during UDR. As rightly argued by the learned Additional Government Pleader for the appellant, this mistake could have been set right only by the District Revenue Officer. But then, the report of the Village Administrative Officer and other materials on record indicate that inclusion of Mayan's name appears to be in order. Only thing is that this inclusion should have been done by the District Revenue Officer and not by the Zonal Deputy Tahsildar. That apart, in the year 2022 itself, Karuppu and Mayan had buried the hatchet.

10.Therefore, we direct the writ petitioner to offer his explanation to the charge memo within a period of one week from the date of receipt of a copy of this judgment. We hold that the question of imposing any major punishment would not arise at all. Even the District Collector, Sivagangai had made it clear that the proceedings will be held only under



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Rule 9 of the Tamil Nadu Pension Rules. We direct the District Collector, Sivagangai to conclude the disciplinary proceedings and pass final orders within a period of two months thereafter. The writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (K.R.S. J.)
12.06.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias/SKM

To:

The District Collector,
Sivagangai District.



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G.R.SWAMINATHAN, J.
and
K.RAJASEKAR, J.

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