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W.P.No.846 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 21.04.2026

Pronounced on : 28.04.2026

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.846 of 2019

K.Saravana Selvam

... Petitioner

vs

1. The Government of Tamil Nadu
Rep. By the Additional Chief Secretary,
Rural Development and Panchayat Raj Department,
Fort St. George, Chennai – 600 009.

2. The Director of Rural Development and
Panchayat Raj,
Panagal Buildings, Chennai – 600 015.

3. The Collector,
Thanjavur,
Thanjavur District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the first respondent in G.O.(D).No.413, Rural Development and Panchayat (E3) Department, dated 23.10.2018 and quash the same and direct the first respondent to declare the completion of the petitioner's probation with effect from 31.05.2014 and grant him all consequential benefits.



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For Petitioner : Mr.P.Rajendran
For Respondents : Mrs.P.Rajarajeswari
Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the records.

2. The case of the petitioner in brief is that he was appointed as Union Overseer on 09.06.2008 and was put on probation for two years within a period of three years of continuous service; that the petitioner had passed the departmental test as mentioned in the appointment order on 31.05.2014; that his services were required to be regularized from the said date i.e., 31.05.2014; and that the respondents without considering of he having passed the departmental examination have regularized his services with effect from 01.04.2018 *vide* G.O.(D).No.413, Rural Development and Panchayat (E3) Department, dated 23.10.2018 and made him ineligible for increments and other financial benefits with effect from the said date of regularization, which action is contended as highly illegal and arbitrary and contrary to Tamil Nadu Government Servants (Conditions of Service) Act, 2016.



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3. Counter affidavit on behalf of the respondents is filed.

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4. It is contended by the respondents that the petitioner was appointed as Union Overseer by the District Collector, Perambalur and joined the services on 09.06.2008; that his services in the cadre of Overseer were regularized in the Afternoon of 09.06.2008; that as per the Special Rules for the Tamil Nadu Panchayat Development Engineering Subordinate Services issued in G.O. (Ms).No.70, Rural Development Department (E-4) Department, dated 20.03.2000, “every person appointed to the category of Overseer by direct recruitment shall from the date on which he joins duty be on probation for a total period of two years on duty within a continuous period of three years”; that it was further ordered that “he shall within the period of probation, pass the account test for Public Works Department Officers and Subordinates and paper (IV) of the department test for officers of the Panchayat Development Department viz., Tamil Nadu Panchayats Act, 1994 with the Rules; and that it was further informed that if the person has failed to pass the above tests within the period of probation, further increments shall be stopped without cumulative effect to a maximum of five years within which the person has to pass the above tests, failing which, the person shall be terminated from service.”



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5. The respondents by the counter affidavit further contended that the above requirement had been clearly stipulated in the appointment order issued to the petitioner of he requiring to pass the department test within a period of probation, failing which, further increments would be stopped without cumulative effect for a period of five years including termination of his services; that the petitioner though had joined the service in the cadre of Overseer in the year 2008 got qualified in the department test only on 31.05.2014 after a lapse of five years, while he was required to pass the said examination during the probation period of two years in continuous service of five years from the date of joining of service; and that the petitioner failed to pass departmental test stipulated within the probation period; thus, the declaration of probation was required to be decided and ordered by the Government; that in the mean time, disciplinary proceedings were initiated against the petitioner in two cases under Rule 17 (b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 (for short Rules, 1955) in the year 2009 and 2013, even before his probation was declared; that the disciplinary proceedings initiated against the petitioner resulted in awarding of punishment in the form of censure and stoppage of increment for a period of one year without



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cumulative effect *vide* order dated 10.05.2016 and 08.02.2017 respectively; and that the Government taking note of the punishment awarded to the petitioner which period of one year ended only on 31.03.2018, regularized his service from 01.04.2018, after completion of punishment period of one year.

6. The respondents also contended that as per Section 31 (4) of Tamil Nadu Government Servants (Conditions and Service) Act, 2016 (for short Act, 2016), the maximum period upto which the probation of a Government servant can be extended, so as to enable him to clear the tests in five years; that the Government servants who had not acquired the test qualification within the maximum period of five years shall be reverted and eligible junior shall be considered for probation; that if a person is appointed by direct recruitment and has not acquired the test qualification within maximum period of five years, his probation shall be terminated; that on account of the petitioner completing the department test on 31.05.2014 ie., after a lapse of six years, though his services were liable to be terminated, the respondents taking a lenient view, forwarded the proposal to the Government to pass orders with regard to the declaration of probation by relaxing Rules; that the Government while considering the said



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proposal as forwarded by the respondents and taking note of the fact that the disciplinary proceedings were initiated against the petitioner in two cases under Rule 17 (b) of the Rules, 1955 one of which ended in petitioner being awarded punishment of stoppage of increment without cumulative effect for a period of one year, while the other being in the form of censure, having regard to Section 32 of the Act, 2016 had declared the probation of the petitioner immediately on the next day of completion of punishment period.

7. The respondents further contended that as per Section 32 (2) of the Act, 2016, when charges are pending, probation cannot be declared; and that as the disciplinary proceedings were initiated against the petitioner even before declaration of his probation in the year 2009 and 2013 respectively, though the services of the petitioner were liable to be terminated on account of the petitioner not complying with the Rules 6 and 7 (b) of Tamil Nadu Panchayat Development Engineering Subordinate Service Rules viz., “not qualifying the departmental test within the prescribed time and also committing the irregularities and lapses in his duties during the period of probation, the respondents forwarded the proposal to Government for declaration of probation by relaxing the Rules; that the



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Government considering the said proposal and taking note of the circumstances, had regularized the services of the petitioner by the impugned proceedings dated 23.10.2018 *vide* G.O.(D).No.413 Rural Development and Panchayat Raj (E3) Department, with effect from 01.04.2018; and thus, the petitioner cannot claim that his probation is to be declared as on 31.05.2014.

8. Contending as above, the respondents seek for dismissal of the writ petition.

9. I have taken note of the respective contentions as urged.

10. The petitioner does not dispute the fact of he being made aware of requiring to clear the departmental test within a period of two years of probation in a continuous period of three years. Since, the petitioner had joined the service on 09.06.2008, the petitioner was required to clear the departmental test on or before 08.06.2011 being the outer time period of three years. Admittedly, the petitioner did not pass the departmental examination before the said time period and passed the departmental examination only on 31.05.2014.



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11. Failure on the part of the petitioner to clear the departmental test within the time prescribed in his appointment letter/order would automatically attract the disqualification of petitioner not being eligible or entitled to any increment from the date of his joining, as his probation was not declared. Further, as per the Rules notified by G.O.(Ms).No.70, Rural Development (E4) Department, the petitioner services became liable for termination on expiry of five years i.e., by 08.06.2013. In spite of the petitioner attracting the disqualification to continue in service, having failed to pass the departmental test, which is precondition of his appointment, the respondents continued his services and allowed him to take the departmental test subsequently and clear the same on 31.05.2014. The indulgence shown by the respondents in allowing the petitioner to continue in service is not authorized by Rules notified by G.O.(Ms).No.70.

12. Thus, the said indulgence shown by the respondents required relaxation of Rules by the Government allowing the petitioner to continue in service. It is for the said reason, the respondents, on the petitioner passing the departmental test on 31.05.2014, have forwarded the proposal to the Government



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seeking relaxation of the Rules, for declaration of probation of the petitioner.

However, in the mean time, ie., even before the petitioner had passed the departmental test, disciplinary proceedings were initiated against the petitioner for various irregularities and lapses in discharge of his duties. Though the respondents could have discharged the petitioner from service on account of the aforesaid proceedings initiated against him while he was on probation, allowed the petitioner to continue in service and the said disciplinary proceedings having finally resulted in petitioner being awarded with punishment of censure and stoppage of one increment without cumulative effect for a period of one year, *vide* proceedings dated 08.02.2017, the petitioner cannot claim that his probation was liable to be declared on 31.05.2014, ignoring the facts that his services in fact were liable to be terminated.

13. Further, Section 32 (2) of the Act, 2016 mandates that the services of a probationer cannot be declared mechanically on completion of probation period, if any disciplinary proceedings are initiated against the said Government servant during the probation period. This stipulation in the Act, 2016 is to ensure that the Government servant would work with honesty and integrity atleast during the



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probation period in order to get his services regularized. Ignoring the said stipulation, if the services of the probationer are to be declared on completion of stipulated period without taking into consideration the conduct during the probation period, would render the provision a redundant piece of legislation.

14. While it is contended by the petitioner that though the disciplinary proceedings were initiated under Rule 17 (b) of the Rules, 1955, as the petitioner is awarded with punishment of censure and stoppage of one increment without cumulative effect for a period of one year, the said punishment award cannot be considered as major punishment attracting the disqualification under Rule 17 (b) of the Rules, 1955, it is to be noted that the proceedings were initiated against the petitioner under Rule 17 (b) of the Rules, 1955; that the disciplinary authority having concluded that the petitioner is to be awarded lesser punishment of censure and stoppage of one increment without cumulative effect for a period of one year, which punishments fall under in Rule 17 (a) of the Rules, 1955, by itself would not mean that the proceedings initiated against the petitioner under Rule 17 (b) are to be treated as the action initiated under Rule 17 (a) of the Rules, 1955, for the petitioner to claim that the said disciplinary proceedings would not attract



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disqualification for declaration of his probation.

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15. It is to be noted that on the respondents initiating disciplinary action against the petitioner under Rule 17 (b) of the Rules, 1955, the petitioner did not seek to challenge the initiation of the said proceedings on the ground that the alleged violations would not attract the provisions of Rule 17 (b) of the Rules 1955 and would fall under Rule 17 (a) of the Rules, 1955.

16. On the other hand, on the petitioner submitting himself to the jurisdiction of the disciplinary authority in the proceedings initiated against him under Rule 17 (b) of the Rules, 1955, and the disciplinary authority taking into consideration the defence of the petitioner and the overall circumstances, having awarded a lesser punishment in the form of censure and cut in one increment for a period of one year without cumulative effect would not result in the proceedings initiated under Rule 17 (b) of the Rules, 1955 being converted into one or initiated under Rule 17 (a) of the Rules, 1955, for the petitioner claim that disqualification not getting attracted. Mere award of lesser punishment after enquiry would not lead to alteration of provision under which disciplinary action is initiated.



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17. The reliance placed by the petitioner on the decision of the Coordinate Bench of this Court in W.P.(MD).NO.17891 of 2022 dated 11.09.2024 would not advance the case of the petitioner, as in the said case, this Court on a challenge made to the disciplinary proceedings initiated under Rule 17 (b) of the Rules, 1955 while holding that the charges levelled against the petitioner therein would not fall within the ambit and purview of Rule 17 (b) of the Rules, 1955 while setting aside the said disciplinary proceedings, permitted the respondents therein to initiate proceedings under Rule 17 (a) of Rules, 1955, which is not so in the present case.

18. In view of the above, the challenge of the petitioner to the proceedings in G.O.(D). No.413 regularizing his services from 01.04.2018 i.e, the next date after completion of the punishment period cannot be said as either illegal or arbitrary for the petitioner to feel agitated or aggrieved.

19. Accordingly, the Writ Petition as filed is devoid of merits and is accordingly, dismissed. No order as to costs.

28.04.2026

Speaking order / Non-speaking order

Index : Yes / No



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Neutral Citation : Yes / No

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T. VINOD KUMAR, J.

dh

Pre-delivery order made in
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