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WP No. 1319 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-01-2026

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

W.P No. 1319 of 2024

Mrs.K.Kannagi
Superintendent,
Department of Ex-Servicemen's
Welfare,
1st Floor, Collectorate Complex,
Vengikkal, Thiruvannamalai-606 604.

Petitioner

Vs

1. The Secretary to Government
Public Department,
Chennai-600 009.

2.The Director Of Ex- Servicemen's
Welfare
Directorate Of Ex- Servicemen's
Welfare,
No.22, Raja Muthiah Salai,
Chennai-600 003.

3.Additional Director Of Ex-
Servicemen's Welfare,
Directorate Of Ex- Servicemen's
Welfare,
No.22, Raja Muthiah Salai,
Chennai-600 003.

4.Assistant Director Of Ex- Servicemen's
Welfare,
Directorate Of Ex- Servicemen's
Welfare, 1st Floor, Collectorate
Complex, Vengikkal,
Thiruvannamalai-606 604.

Respondents

**PRAYER:**

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari calling for the records relating to the impugned orders dated 10.07.2023 in Reference No. 1544/ 2023/ Nir5, passed by the 2nd Respondent received by the Petitioner on 24.07.2023 and the order in Reference No.G.O. (1D) No.385 dated 13.11.2023 passed by the 1st Respondent and to quash the same.

For Petitioner: Mr.S.Silambanan
Senior Counsel
for Ms.K. Annamma

For Respondents: Mr.R.U.Dinesh Raj
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned orders dated 10.07.2023 of the 2nd Respondent and the order dated 13.11.2023 passed by the 1st Respondent and to quash the same.

2.The facts in nutshell are as follows:

(i) The petitioner is working as “Superintendent” in the Department of Ex-Servicemen Welfare, Thiruvannamalai since 2016. The petitioner has been served with the Memorandum dated 24.02.2023 issued by the 3rd respondent herein through the 4th respondent, stating that on 02.02.2023 at 4.00 P.M., when



the 2nd Respondent herein enquired through phone it was found that the 4th respondent herein was not on duty on 01.02.2023 and 02.02.2023 and further found that the Petitioner was also not in the office. Though the 4th respondent has applied for 10 days leave from 01.02.2023 to 10.02.2023, there was no mention about the same in the Attendance Register and therefore sought for explanation with regard to non mentioning of the leave in the attendance register and the reason for her absence in the office on 02.02.2023. The petitioner had given her explanation on 06.03.2023 stating that she is on field duty to obtain the blue print in respect of the construction of the proposed building (viz.) Jawan's Bhavan from Mr.S.Mukilan, Assistant Engineer (Buildings), Public Works Department and to hand over the same to the Municipal Commissioner as instructed by the 4th Respondent and with regard to the leave of the 4th respondent, since the same has to be approved by the District Collector and as the District Collector had left to Vellore on 01.02.2023 for Chief Minister's Inspection Meeting, the approval of the District Collector could not be obtained and when the said fact was informed to the 4th respondent, he instructed her to get approval of the District Collector on 03.02.2023 and thereafter to make entry in the attendance register. Thereafter, the leave was approved by the District Collector on 03.02.2023.



(ii) Despite the receipt of the explanation dated 06.03.2023, the 2nd

Respondent issued a further memorandum dated 30.03.2023 in Na.Ka.No.1544/2023/Nir5, wherein it was stated that the disciplinary action has been initiated against the petitioner under Section 17(a) of Tamil Nadu Civil Services (Discipline and Appeal) Rules 1955 and sought petitioner's explanation within 7 days from the date of receipt of the same. The petitioner given her due reply on 11.04.2023. Despite her explanation the 2nd Respondent imposed punishment of Stoppage of increment without cumulative effect for 2 years etc., by her proceedings dated 10.07.2023 in Reference No.1544/2023/Nir5 granting 60 days for Appeal to the Secretary, Public Department, Secretariat, Chennai- 600 009 and the same was received by the petitioner on 24.07.2023. The Petitioner sent her Appeal to the Secretary, Public Department, Secretariat, Chennai – 600 009 on 01.08.2023 but the 1st respondent confirmed the punishment of stoppage of increment without cumulative effect for 2 years etc., on the ground that the petitioner have not given any explanation. Aggrieved by the same, the petitioner filed the present Writ Petition.

3. Mr.S.Silambanan, learned Senior Counsel appearing for the petitioner would submit that though the petitioner had given detailed explanations with regard to her absence on 02.02.2023 and also with regard to the non mentioning



of leave of the 4th respondent in the attendance register, the 2nd respondent without considering the same has passed the impugned order dated 10.07.2023 and the 1st Respondent being the appellate authority, had also failed to take into consideration of the explanations submitted by the petitioner, before confirming the punishment. He therefore prays to set aside the same.

4. The learned Additional Government Pleader appearing for the respondent would submit that when the Director of Ex-Servicemen's Welfare contacted the Assistant Director of Ex-Servicement's Welfare, Tiruvannamalai over phone at 4.00 P.M. on 02.02.2023, it was found that the Assistant Director was not available in the office and was also not on duty on 01.02.2023 and 02.02.2023 and the same was also not reported to his superior officials viz.. the District Collector as well as the Director of Ex-Servicemen's Welfare. That apart, the Petitioner was also not available in the office when the Director contacted her over phone. Further, he would submit that Assistant Director, without obtaining permission from his superiors was absent from duty on 01.02.2023 and 02.02.2023. On scrutiny of the attendance register, it is found that there is no sign of the Assistant Director on 01.02.2023 and 02.02.2023 and it was kept blank and Attendance Register was also not closed on those days. Though the petitioner put up her signature in the leave application of the



Assistant Director on 01.02.2023, she has not mentioned the same in the attendance register and it was kept blank on 01.02.2023 and 02.02.2023.

Therefore, since the petitioner had not discharged her duties properly, Charge Memos were issued to the petitioner and only after considering the reply filed her, the 2nd respondent has imposed the punishment of stoppage of increment for a period of two years without cumulative effect. Since the petitioner has not put forth any new points in her favour against the punishment imposed on her in the appeal, the 1st respondent has confirmed the punishment. Therefore, there is no illegality in the orders passed by the respondents 1 and 2. He therefore prays for dismissal of this Writ Petition.

5. Heard both sides. Perused the records.

6. With regard to the allegation against the petitioner that the petitioner had put her signature in the leave application submitted to the 4th respondent seeking leave from 01.02.2023 to 10.02.2023 but the same was not marked in the Attendance Register is concerned, admittedly, the petitioner is incharge of the office on 01.02.2023 and 02.02.2023. The petitioner, in her explanation, had clearly stated that since the leave of the 4th respondent has to be approved by the District Collector and as the District Collector had left for



Vellore on 01.02.2023 for Chief Minister's Inspection Meeting, the approval of the District Collector could not be obtained and when the same was informed to the 4th respondent, he instructed the petitioner to get approval of the District Collector on 03.02.2023 and thereafter to make entry in the Attendance Register. Therefore, the leave applied by the 4th respondent was not mentioned in the Attendance Register on the said dates and it was kept blank. Therefore, it is clear that there is no malafide intention on the part of the petitioner in not mentioning about the leave in the attendance register on 01.02.2023 and 02.02.2023. That apart, the leave applied by the 4th respondent was also sanctioned on 03.02.2023 by the District Collector.

7. With regard to reason for her absence on 02.02.2023, the petitioner in her explanation has clearly stated that on 02.02.2023 she was on field duty to obtain the blue print in respect of the construction of the proposed building (viz.) Jawan's Bhavan from one Mr.S.Mukilan, Assistant Engineer (Buildings), Public Works Department and to hand over the same to the Municipal Commissioner as instructed by the 4th Respondent.

8. The precedents on the issue of interference with the punishment imposed has been oft considered by the Courts and it has been the consistent



view of the Courts that it is always within the domain of the disciplinary authority to decide on the punishment to be imposed on the delinquent, which should be proportionate to the act of the delinquent. Only when the punishment is disproportionate and shocking to the conscience, should the courts interfere in the same in exercise of powers under Article 226. In ***Prem Nath Bali – Vs - High Court of Delhi (2015 (16) SCC 415)***, the Supreme Court held as under :-

“20. It is a settled principle of law that once the charges leveled against the delinquent employee are proved then it is for the appointing authority to decide as to what punishment should be imposed on the delinquent employee as per the Rules. The appointing authority, keeping in view the nature and gravity of the charges, findings of the inquiry officer, entire service record of the delinquent employee and all relevant factors relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rules.

21. Once such discretion is exercised by the appointing authority in inflicting the punishment (whether minor or major) then the courts are slow to interfere in the quantum of punishment and only in rare and appropriate case substitutes the punishment. Such power is exercised when the court finds that the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved



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charges thereby shocking the conscience of the court or when it is found to be in contravention of the Rules. The

Court may, in such cases, remit the case to the appointing authority for imposing any other punishment as against what was originally awarded to the delinquent employee by the appointing authority as per the Rules or may substitute the punishment by itself instead of remitting to the appointing authority.”

(Emphasis Supplied)

9. From the ratio laid down by the Apex Court above, it is crystal clear that the power to interfere with the punishment should be exercised only if the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges and, thereby, shocking the conscience of the Court or if it is in contravention of the Rules.

10. In the present case, there are clear and accountable justification placed by the petitioner for her absence, which cannot be said to be without approval.

11. In the light of the aforesaid discussions, the punishment imposed on the petitioner, for the minor lapses is unsustainable and therefore the same is



liable to be set aside. Hence, the orders impugned herein are set aside and this

Writ Petition stands allowed. No costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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