



WEB COPY

WP No. 4897 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-02-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

WP No. 4897 of 2025

and

W.M.P.No.5425 of 2025

and

W.M.P.No.52279 of 2025

Union Of India

Represented by

The Deputy Director (Administration)

(Disciplinary Authority)

Office of the Director General of Commercial

Audit and Ex-officio Member Audit Board,

Indian Oil Bhavan, Level – 2,

No.139 Mahatma Gandhi Road,

Chennai 600 034

..Petitioner(s)

Vs

Jyothi

New No.65, Old No.22/1, 2nd Street

Bharattheswarar Colony,

Kodambakkam, Chennai 600 024

..Respondent(s)



Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the Central Administrative Tribunal, Chennai Bench in OA No.367/2022 dated 28.11.2024 and quash the same.

For Petitioner(s): Mr.Vijay Shankar

For Respondent(s): Mr.V.Sundareswaran

ORDER

(Order of the Court was made by K.Kumaresh Babu J.)

The present writ petition has been filed to quash the order of the Central Administrative Tribunal, Chennai Bench in OA No.367/2022 dated 28.11.2024.

2. The learned counsel for the petitioner would submit that the respondent had joined as Data Entry Operator on 29.07.2016 and her services were confirmed on successful completion of probation on 17.12.2018. In May 2019, the respondent had applied for Casual Leave for three days, but did not resume duty thereafter. However on 08.05.2019, a mail was sent to the Department seeking sanction of Extraordinary Leave upto 07.06.2019 for taking care of her ailing mother. By Office Memorandum dated 14.05.2019, Extraordinary Leave upto 17.05.2019 was granted and the respondent was directed to report for duty on 20.05.2019. However, by mail dated 21.05.2019, she reiterated her request for Extraordinary leave upto 07.06.2019. The respondent did not comply with



the Office Memorandum dated 14.05.2019. Hence a memo was issued on 10.06.2019, calling for an explanation for overstay. Without explaining herself, by mail dated 19.06.2019, expressing her inability to join duty, she had sought for further extension of two months, which was not accepted by the Department. Hence on 27.06.2019, a charge memo was issued with regard to her unauthorized absence. By e-mail dated 08.07.2019, she had indicated that she would present herself for enquiry on 05.08.2019 and sought for Extraordinary leave till 04.08.2019. This request was also not accepted by the Department. An Enquiry Officer was appointed and enquiry was conducted on 24.08.2019, 19.09.2019 and 17.10.2019, by giving prior intimation of such hearing. Even on the said dates, the respondent had not attended the enquiry and an exparte enquiry report came to be filed on 25.10.2019. The same was forwarded on 19.12.2019, even for which there was no representation and hence, an order of termination was passed on 23.01.2020.

3. Thereafter, after a period of 18 months, an appeal was preferred and the same also came to be dismissed. Challenging the order of removal, the respondent had approached the Tribunal and the Tribunal by its order impugned, without appreciating the procedure that was followed, had set aside the same with a direction to conduct a *de novo* Enquiry apart from ordering reinstatement with all consequential benefits.



4. The learned counsel for the petitioner would contend that there has been no irregularity or infirmity in the disciplinary proceedings that had been conducted and that the respondent had been granted all opportunities of hearing, which had been ignored to by the respondent. In such an event, he would submit that there is no violation of any proceedings for *de novo* enquiry to be conducted. He would further submit that even assuming that a *de novo* enquiry is to be undertaken, it was a manifest error in directing reinstatement with consequential benefits, that too for the period during which the respondent had not been in service and at the most, an order of deemed suspension could have been directed. Hence, he seeks interference of the order impugned herein.

5. Countering his arguments, Mr.V.Sundareswaran, learned counsel appearing for the respondent would submit that the respondent's mother had suddenly taken ill and only for which reason, the respondent was forced to avail leave. In spite of repeated representations, seeking for extension of leave, the same has not been granted nor the rejection was communicated, but on the other hand, the charge memo was issued. He would submit that the respondent's mother suffered from Osteo porosis, which had lead to blockage of nerves running to the leg and her mother was unable to move, which require full time attention. These aspects were not considered by the petitioner and therefore, there is no error in the matter being remitted back to the petitioner for conducting a fresh enquiry. He would further submit that there is also no error



in directing reinstatement, as the order of punishment has been set aside. Hence, he would submit that there is no error on the part of the Tribunal in passing the impugned order. Hence, he seeks dismissal of the writ petition.

6. We have considered the submissions made by the learned counsel appearing on either side and perused the materials available on record.

7. It is an admitted case that in the enquiry proceedings that has conducted against the respondent, she did not participate. It is the case of the respondent that her mother had seriously fallen ill, which had required not only medical attention, but also full support. It is to be noted that the respondent had also sent communications through e-mail, seeking extension of leave, detailing reasons.

8. We are of the view that if the respondent is given an opportunity to defend herself in the disciplinary proceedings, it would comply with the principles of natural justice and the rules of *audi alteram partem*. Hence, we do not find any infirmity with the impugned order, directing a fresh enquiry. But on the other hand, we are of the considered view that the direction issued to reinstate the respondent with all consequential benefits ought not to have been made. It is trite in service jurisprudence that in cases, where an order of termination by any means is set aside and remitted for fresh consideration, the



employee, who has suffered such punishment shall be deemed to be under suspension till the fresh enquiry is conducted and on conclusion of the disciplinary proceedings, it is for the disciplinary authority, who had been vested with the power to decide as to how the interregnum period should be treated.

9. For the aforesaid reasons, the writ petition is partly-allowed and the impugned order, insofar as it directs reinstatement with consequential benefits alone is set aside. The respondent shall be deemed to be under suspension from the date of the order made in the original application. It is needless to state that the respondent would also be entitled to Subsistence Allowance from the date of the order of the Tribunal dated 28.11.2024 in O.A.No.367 of 2022.

10. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(C.V.K.,J.) (K.B.,J.)
11-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

The Central Administrative Tribunal,
Chennai Bench,
Chennai.

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**C.V.KARTHIKEYAN, J.
AND
K.KUMARESH BABU, J.**

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