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W.P.No.28538 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2026

CORAM

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.28538 of 2015
and
M.P.Nos.1 and 2 of 2015

R.Parthiban
Assistant
Nagapattinam Municipality
Nagapattinam.

... Petitioner

vs.

1. The Commissioner
Cuddalore Municipality
Cuddalore.
 2. The Commissioner of Municipal Administration
Chepauk
Chennai-600 005.
 3. The Secretary to Government
Municipal Administration and Water Supply Department
Secretariat, Chennai-600 009.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records of the impugned order of the 2nd respondent issued in Na.Ka.No.14289/11/K2

Page Nos.1/8



W.P.No.28538 of 2015

dated 30.08.2011 and the consequential order passed by the 3rd respondent in G.O.(D)No.396, MAWS Department, dated 29.10.2014 and quash the same and consequently, direct the 2nd respondent to consider the name of the petitioner for promotion as Superintendent in Class V posts in the panel prepared for the year 2010-2011 on par with his juniors with all service benefits.

For Petitioner : Mr.T.Ranganathan
For Respondents : Mr.P.Chinnadurai, for R1
Mr.V.Veluchamy,
Additional Government Pleader
for R2 & R3

ORDER

The captioned Writ Petition has been filed challenging the order dated 30.08.2011 bearing Reference Na.Ka.No.14289/11/K2 issued by the second respondent, whereby the petitioner was imposed with the punishment of stoppage of next annual increment for three months without cumulative effect. The petitioner also challenges the order dated 29.10.2014 bearing Reference G.O.D.No.396, Municipal Administration and Water Supply (ME-1) Department, issued by the third respondent, whereby the order of punishment imposed on the petitioner was confirmed.

Page Nos.2/8



W.P.No.28538 of 2015

2. The petitioner, while serving as Assistant in the respondent Municipality, was issued a charge memo dated 12.11.2007 containing five charges. Charge No.1 relates to the alleged failure to properly hand over charge and the sending of the almirah key after four days through tapal. The petitioner submitted his explanation to the show cause notice denying all the allegations. The Disciplinary Authority, not being satisfied with the explanation, initiated departmental enquiry against the petitioner.

3. Before the Enquiry Officer, the petitioner appeared and submitted his defence. The Enquiry Officer, upon considering the materials on record and the defence put forth by the petitioner, held that Charge No.1 stood proved and Charge Nos.2 to 5 were not proved. Thereafter, a second show cause notice was issued, to which the petitioner submitted a further explanation. The Disciplinary Authority, after considering the enquiry report and the further explanation, passed the impugned order of punishment. The said order was confirmed by the third respondent – Appellate Authority.

4. Mr. T. Ranganathan, learned counsel for the petitioner, submitted that the enquiry was conducted under Rule 8(2) of the Tamil Nadu Municipal Services (Discipline and Appeal) Rules, 1970 (hereinafter



W.P.No.28538 of 2015

referred to as “the said Rules”). However, the charge memo was not accompanied by Annexure-IV containing the list of witnesses, which is mandatory. He further submitted that the first respondent, without properly considering the further explanation, passed the impugned order, which is in violation of the principles of natural justice and is arbitrary and discriminatory. Therefore, the impugned order passed by the Disciplinary Authority and confirmed by the Appellate Authority is not legally sustainable.

5. In response, Mr. P. Chinnadurai, learned counsel for the first respondent, submitted that the materials on record clearly establish that the petitioner deliberately failed to hand over charge and the keys after his transfer and that, in the absence of any perversity or arbitrariness in the findings recorded by the Enquiry Officer, the impugned order of punishment does not warrant interference.

6. The arguments advanced by the learned counsel for the parties and the materials available on record have been duly considered.



W.P.No.28538 of 2015

7. The substance of Charge No.1 against the petitioner is that he failed to hand over charge and sent the almirah keys after four days through tapal.

On a perusal of the charge memo, it is evident that the statement of imputations does not contain specific particulars, particularly the date on which the petitioner was required to hand over charge and the date on which he allegedly handed over the same. In that view, Charge No.1 is vague in nature.

8. Before the Enquiry Officer, the petitioner stated that upon his transfer and relieving from the duty, he visited the office on 16.10.2007 and handed over the C1 Bureau key to the Manager. Since the Manager expressed his inability to receive the same, the key was sent to the office by post. Thereafter, on 03.11.2007, the petitioner handed over the charge list to one Mr. B. Karthikeyan. The Enquiry Officer, however, without properly advertng to the defence explanation, held that Charge No.1 stood proved, while holding that Charge Nos.2 to 5 were not proved.

9. In his further explanation, the petitioner specifically contended that he was on duty on 12.10.2007; no relieving order was served on him; 13.10.2007 and 14.10.2007 were holidays; on 15.10.2007 he could not

Page Nos.5/8



W.P.No.28538 of 2015

attend office due to personal reasons; and on 16.10.2007 he informed the Manager that the handing-over list could not be prepared since the Commissioner had not approved the letter to the Police Inspector. He requested the Manager to receive the keys, which was refused, compelling him to send the keys by post. Though the Disciplinary Authority adverted to the said explanation, no reasons were assigned for rejecting the same.

10. It is a settled principle of law that punishment in a departmental enquiry can be sustained only when the foundational requirements of a valid charge memo, adherence to the principles of natural justice, proof of charges by legally acceptable evidence, and independent application of mind by the Disciplinary Authority are strictly complied with. Any infraction of these essential elements vitiates the entire disciplinary proceedings and renders the order of punishment liable to be quashed. In the present case, the impugned order does not satisfy these essential legal requirements and is therefore not legally sustainable.

11. Furthermore, the charge memo did not contain the list of witnesses in the form of Annexure-IV, as mandated under Rule 8(2) of the said Rules. The absence of such mandatory particulars renders the enquiry procedurally



W.P.No.28538 of 2015

defective.

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12. In light of the above, the enquiry conducted against the petitioner and the consequential order of punishment are in clear violation of Rule 8(2) of the said Rules and also violative of the principles of natural justice. The impugned order is therefore not legally sustainable.

13. Accordingly, the captioned Writ Petition is allowed and the impugned order dated 30.08.2011 bearing Reference Na.Ka.No.14289/11/K2 is hereby quashed. The respondents are directed to consider the case of the petitioner for promotion, to which he is otherwise legally entitled, on par with his juniors. Consequently, the connected miscellaneous petitions are closed. There shall be no order as to costs.

16.02.2026

Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking

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Page Nos.7/8



WEB COPY



W.P.No.28538 of 2015

HEMANT CHANDANGOUDAR, J.,

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To

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Cuddalore Municipality
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Chepauk
Chennai-600 005.
3. The Secretary to Government
Municipal Administration and Water Supply Department
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W.P.No.28538 of 2015

16.02.2026

Page Nos.8/8