



W.P.No.9514 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 10.03.2026

Pronounced on : 13.03.2026

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.9514 of 2019

and

WMP.10134 of 2019

S.Devaraj,
Inspector,
Hindu Religious and Charitable
Endowment Department,
Tiruvannamalai.

... Petitioner

vs

1.The Secretary to Government,
Tamil Culture and Religious Endowment
Department,
Secretariat, Chennai – 600 009.

2.The Commissioner,
Hindu Religious and Charitable
Endowment Department,
No.119, Mahatma Gandhi Road,
Nungambakkam, Chennai – 600 034.

3.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Virudhunagar.

... Respondents



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Prayer: Writ Petitions are 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 passed by the second respondent in his proceedings No.45333/2013/B2 dated 22.04.2015 and the consequential order passed by the Appellate Authority the first respondent in G.O.(D).No.147, Tourism, Culture and Religious Endowment Department, dated 05.10.2017 and quash the same and to pass orders.

For Petitioner : Mr.T.Ranganathan
For Respondents : Mr.S.Ravichandran
Additional Government Pleader

ORDER

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

2. The case of the petitioner in brief is that the first respondent by the impugned order in G.O.(D).No.147, Tourism, Culture and Religious Endowment Department, dated 05.10.2017 had rejected the appeal submitted by him against the order of the third respondent dated 12.08.2013 by which he was visited with penalty under Section 17 (b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 (for short 'D&A Rules, 1955').



3. It is the case of the petitioner that the third respondent had issued a charge memo dated 12.08.2013 containing nine articles of charge; that on the petitioner submitting his defence statement to the aforesaid articles of charge, had appointed an enquiry officer; that on the enquiry officer submitting his report on 02.01.2015, the second respondent *vide* his proceedings dated 12.04.2015 had imposed the penalty on him of stoppage of increment for two years with cumulative effect; and that on filing of an appeal to the first respondent, the first respondent by the impugned proceedings, had rejected the appeal without considering the same in correct and proper perspective.

4. The petitioner further contended that the order of the first respondent, by which his appeal has been rejected, is a non-speaking order, as the appellate authority did not record any reasons for rejecting his appeal; that the Appellate authority by obtaining opinion from the TNPSC, confirmed the order by which he was awarded penalty, without furnishing him with a copy of the said opinion to enable him to submit his explanation; that the non-furnishing of a copy of the opinion of TNPSC is contrary to Rule 23 of D&A Rules, 1955; and thus, the impugned proceedings are not only contrary to Rules but are also in violation of principles of natural justice and are liable to be set aside.



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

6. The respondents by the counter affidavit contended that the third respondent being the immediate higher authority under whom the petitioner was working, had initiated the disciplinary proceedings and had issued him charge memo containing 9 articles of charge; that on the petitioner submitting his reply and finding that the explanation was not satisfactory, had appointed an enquiry officer to conduct an enquiry into the articles of charge; that the enquiry officer conducted a detailed enquiry and submitted his report; that as per the report of the enquiry officer except Charge No.8, all other charges namely charges 1 to 7 and 9 were found proved; and that the third respondent thereafter forwarded the charge memo, the explanation of the petitioner and the enquiry report to the second respondent, being the competent authority to take further action on the disciplinary proceedings initiated against the petitioner; and that the second respondent having regard to the report of the enquiry officer had accepted the same in its entirety, including the charge which was found to be not proved; that by furnishing a copy of the enquiry report to the petitioner, had sought for his explanation; and that by



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considering the further explanation submitted by the petitioner, had passed the order by which petitioner was visited with imposition of penalty of stoppage of increment of two years with cumulative effect.

7. On behalf of the respondents, it is contended that aggrieved by the aforesaid order the petitioner had filed appeal with the first respondent and on the appeal being rejected by the first respondent, approached this Court by filing Writ Petition *vide* W.P.No.753 of 2017 on the ground that the authority, who had passed the order of penalty had himself acted as appellate authority; and that this Court by order dated 10.01.2017 was pleased to set aside the order impugned therein and remitted the matter back to the first respondent to pass orders afresh after issuing notice to the petitioner.

8. The respondent by the counter affidavit further contended that on this Court setting aside the order of the first respondent in the appeal filed against the order of the second respondent by which petitioner was awarded penalty, the first respondent once again issued notice to the petitioner to appear for personal hearing on 03.05.2017; that on the petitioner appearing before the first respondent on the



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said date and making his statement, the first respondent, by duly considering the explanation offered by the petitioner at the time of personal hearing, had passed the order rejecting the appeal.

9. On behalf of the respondents, it is also contended that though the first respondent had obtained an opinion from TNPSC under Rule 18 (1) (2) of TNPSC Regulations, 1954, the said authority did not pass order on the basis of opinion given by TNPSC; that on going through the opinion given by the TNPSC, as required under Rule 18 (1) (2) of TNPSC Regulations, 1954, the first respondent had issued a notice of personal hearing to the petitioner, granting him opportunity for hearing on 03.05.2017 and based on the statements made by the petitioner during the hearing, and after taking into consideration of the material evidence on record, had passed the impugned order.

10. It is further contended that the first respondent had passed the impugned order by recording reasons for rejecting the appeal and finding that the conduct of the petitioner demonstrates negligence in his duties.



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11. On behalf of the respondents, it is also contended that though this Court while disposing of Writ Petition *vide* W.P.No.753 of 2017 had directed the first respondent to dispose of the appeal preferred by the petitioner within a period of 6 weeks, the petitioner on being issued with notice of personal hearing to appear on 03.05.2017, having appeared before the first respondent and making his statements in support of his appeal, cannot claim that the order has been passed beyond the time granted by this Court.

12. It is the further case of the respondents that the disciplinary authority as well as the appellate authority took note of the unauthorized absence of the petitioner from the duties, while awarding penalty of stoppage of increment; and that the punishment awarded commensurates with the delinquencies and as such, the penalty awarded cannot be treated as excessive punishment, for the petitioner to be granted any relief in the writ petition.

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



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14. I have taken note of the respective submissions as urged.

15. Though an effort was sought to be made on behalf of the petitioner to argue the present writ petition as if the same as an appeal against the order of the appellate authority whereby the order of the disciplinary authority has been confirmed, it is to be noted that in a writ petition filed under Article 226 of the Constitution of India, this Court does not act as an appellate authority and is required to see only as to whether the order of the appellate authority suffers from any perversity or has been passed by the incompetent authority or there is any violation of principles of natural justice.

16. In a challenge before this Court in a writ petition under Article 226 of Constitution of India to an order of disciplinary authority against which the remedy of appeal had been availed, the scope of interference is limited.

17. The Apex Court in the case of ***Union of India Vs. P.Gunasekaran*** reported in ***(2015) 2 SCC 610***, has held as under:-

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate



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authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- (h) the disciplinary authority had erroneously admitted*



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inadmissible evidence which influenced the finding;

(i) the finding of fact is based on no evidence.

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

(i) reappreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based.

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience”

18. Further, the Hon’ble Apex Court in the case of the ***Union of India Vs. Subrata Nath*** reported in ***2020 Online SC 1617*** held as under:-

“21. To sum up the legal position, being fact finding authorities, both the Disciplinary Authority and the Appellate Authority are vested with the exclusive power to examine the evidence



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forming part of the inquiry report. On finding the evidence to be adequate and reliable during the departmental inquiry, the Disciplinary Authority has the discretion to impose appropriate punishment on the delinquent employee keeping in mind the gravity of the misconduct. However, in exercise of powers of judicial review, the High Court or for that matter, the Tribunal cannot ordinarily reappreciate the evidence to arrive at its own conclusion in respect of the penalty imposed unless and until the punishment imposed is so disproportionate to the offence that it would shock the conscience of the High Court/Tribunal or is found to be flawed for other reasons, as enumerated in P. Gunasekaran (supra). If the punishment imposed on the delinquent employee is such that shocks the conscience of the High Court or the Tribunal, then the Disciplinary/Appellate Authority may be called upon to re-consider the penalty imposed. Only in exceptional circumstances, which need to be mentioned, should the High Court/Tribunal decide to impose appropriate punishment by itself, on offering cogent reasons therefor”



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19. The position of law as laid down by the Hon'ble Apex Court in the aforesaid decision binds this Court while considering the challenge to an order of disciplinary authority as affirmed in appeal. Keeping the aforesaid binding precedents in consideration, if the case of the petitioner in the present case are examined, though it is contended that the impugned order is a non-speaking order and that the appellate authority did not furnish the petitioner with a copy of the opinion obtained from TNPSC, thereby resulting in a violation of principle of natural justice, it is to be noted that the first respondent, while rejecting the appeal of the petitioner, did not place reliance on the opinion which the said authority had obtained from TNPSC as required under Rule 18 of Regulations, 1954. If only the first respondent while rejecting the appeal, had stated that since the TNPSC had opined that the order of the disciplinary authority does not call for any interference and merely acting on the said opinion obtained, there would be a need to furnish a copy of the said opinion to the petitioner. However, in the facts of the present case, the first respondent had merely obtained, had passed the order rejecting the appeal, the petitioner can claim of violation of principle of natural justice or that the authority having not applied his mind independently. On the other hand, the first respondent only obtained opinion from TNPSC as required under Regulation



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18 (I) of Regulation, 1954 and after going through the same, had issued notice of hearing to the petitioner and on petitioner appearing on the day fixed and making his submissions had passed the order independently, there is no need to furnish a copy of the said opinion to the petitioner, taking note of the statements made by the petitioner herein and also by examining the record thoroughly, had come to the conclusion that the petitioner was absent without prior permission from the special duty on 04.04.2013 to 07.04.2013 at Punguni Festival of Arulmigu Muthumariamman Temple, Thayamangalam, Sivagangai District and was also absent/unauthorized leave on 08.08.2013 and Adipoora Therotta Thiruvizha on 09.08.2013 at Arulmigu Nachiyar (Andal) Kovil, Thiruvilliputhur, Virudhunagar District; and that he failed to report duty on 09.08.2013 when all other officers were verbally directed to report special duty, were present.

20. The first respondent while passing the impugned order also took note of the fact that the petitioner failed to attend public grievance meeting held under District Collector's Chairmanship on 08.04.2013, 12.04.2013, 13.05.2013, 27.05.2013 and 10.06.2013 and took leave without prior approval. The first respondent further noted the fact that though the petitioner had claimed that he was



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attending Court cases, he failed to submit the Court Case Register, which action of the petitioner, the first respondent found to be demonstrating negligence of duties and concurred with the orders of disciplinary authority in order to reject the appeal. Thus, the above finding recorded by the first respondent while rejecting the appeal cannot be said as non-recording of reasons or the impugned order being a non-speaking order. It is a settled position of law that the orders of quasi judicial authorities need not be elaborate orders as Court orders and it would suffice if the authority records its finding to arrive at a conclusion. (See: S.N.Mukherjee Vs. Union of India – (1990) 4 SCC 594 (para 36))

21. Since, the first respondent by the impugned order passed had categorically recorded finding of the petitioner disobeying the orders of his superior in attending duties and also remaining absent/availing leave without prior approval as an act of misconduct of negligence in his duties, this Court is of the view that the said findings are to be construed as reasons of the first appellate authority while concurring with the order of the disciplinary authority in rejecting the appeal.



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22. Though, on behalf of the petitioner, it is contended that there has been animosity between the petitioner and his immediate superior authority ie., third respondent, who had issued charge memo to the petitioner containing 9 articles of charge and for the said reason, though the petitioner had sought for sanction of leave, the said authority did not grant leave, it is to be noted that no materials is placed on record to show that when the third respondent had refused to accept the request made by the petitioner for sanction of leave, he having approached higher authorities bringing to their notice about the aforesaid act of the third respondent. Thus, the said plea not having been urged, can only be considered as an afterthought to get over the punishment/penalty, he is visited with.

23. Though before this Court it is pleaded that this Court, while disposing of writ petition *vide* W.P.No.753 of 2017 having directed the first respondent to dispose of the appeal in 6 weeks, after granting opportunity to the petitioner, and the impugned order having been passed beyond the said period of 6 weeks granted by this Court, it is to be noted that on the first respondent issuing notice for personal hearing on 03.05.2017, the petitioner had appeared before the first respondent on the said date and also made his statement without taking a plea



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that the notice having been issued beyond the period specified by this Court. Thus, this Court is of the view that the petitioner is estopped from taking the said plea after having appeared for personal hearing and suffering an adverse order.

24. Though it is also contended that the punishment/penalty awarded is disproportionate, it is trite law that the Writ Court does not sit in judgment over the punishment/penalty awarded by the disciplinary authority or appellate authority and substitute its views with that of the disciplinary authority/appellate authority for modifying the penalty. (*See: B.C.Chaturvedi Vs. Union of India (1995) 6 SCC 749 and Damoh Panna Sagar Rural Regional Bank Vs. Munna Lal Jain (2005) 10 SCC 84*)

25. In view of the above, having regard to the proved articles of charge since, both the disciplinary authority as well as appellate authority, had come to the conclusion to visit the petitioner with penalty under Rule 17 (b) of D&A Rules, 1955, of stoppage of increment for two years with cumulative effect, this Court is of the view that the said orders cannot be stated to be vitiated or shocking to the conscience of the court for it to be interfered with.



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26. Accordingly, the present writ petition as filed is devoid of merits and is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

13.03.2026

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

dh

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T. VINOD KUMAR, J.

dh

Pre-delivery order made in
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