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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.02.2026

PRONOUNCED ON : 27.02.2026

CORAM :

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

W.P.No. 17116 of 2023

1. The Union of India
Rep. by the Principal Accountant General (Audit-I),
Tamil Nadu
(Appellate Authority)
Lekha Pariksha Bhavan
No.361, Anna Salai, Teynampet
Chennai – 600 018.
 2. Senior Deputy Accountant General (Admn.)
(Disciplinary Authority)
Office of the Principal Accountant General (Audit-I),
Tamil Nadu
Lekha Pariksha Bhavan
No.361, Anna Salai, Teynampet
Chennai – 600 018.
- ... Petitioners

Vs.

1. E.Dinesh Kumar (died)
S/o. Late M.Elumalai
2. The Registrar
Central Administrative Tribunal



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Chennai Bench, High Court Complex
Chennai – 600 104.

3. Bhavani C.K.
W/o. Late Shri E.Dinesh Kumar
4. Lakshmi Devi
M/o. Late Shri E.Dinesh Kumar
5. Keerthi.D
D/o. Late Shri E.Dinesh Kumar
6. Minor Darshan.D,
S/o. Late Shri E.Dinesh Kumar
Represented by mother and natural Guardian
Mrs.Bhavani C.K.

...Respondents

[R3 to R6 are substituted as LR's of deceased first respondent vide order dated 08.01.2026 made in WMP.No. 53262 of 2025 in W.P.No. 17116 of 2023 by CVKJ & KBJ]

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari to call for the records of the second respondent viz., Central Administrative Tribunal, Chennai Bench in O.A.No. 159 of 2021 dated 10.03.2023 and quash the same.

For Petitioners : Mr. V.Vijaya shankar

For RR 3 to 6 : Mr.R.Malaichamy

ORDER

(Order of the Court was made by **C.V.KARTHIKEYAN, J.**)



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The respondents in O.A.No. 159 of 2021 aggrieved by the order dated 10.03.2023 of the Central Administrative Tribunal, Chennai, have filed the Writ Petition.

2. O.A.No. 159 of 2021 has been filed by the first respondent E.Dineshkumar, who died pending the Writ Petition and whose legal representatives have been substituted as third to sixth respondents seeking to set aside the order dated 31.07.2020 and subsequent order dated 01.01.2021 by which orders, the first respondent was dismissed from service and to reinstate him into service with all attendant benefits including backwages.

3. The first respondent was working as Senior Auditor in the office of the Principal Accountant General (Audit-I), Tamilnadu. It was alleged that he had availed credit purchase on purchase of handloom clothing material for a sum of Rs.45,377/- from the Tamil Nadu Thillayadi Valliammal Pattu Maaligai (TVPM) Showroom, Egmore, Chennai, (Co-optex) during November 2018. It was stated that there was a scheme for purchase of handloom materials during festival times from Co-optex which employees could avail by producing a declaration form. After the purchase,



the amounts would be recovered in monthly installments from their pay.

This particular scheme was discontinued in the year 2018. It was contended that in November 2018, after the credit purchase scheme had been discontinued, the first respondent submitted an application form and availed credit purchase from the Co-optex for a sum of Rs.45,377/-. It was further noticed that the application form was issued by the office of the Accountant General (A & E) which is a separate office as distinct from the office of the Accountant General (Audit-I). It was contended that the first respondent had played fraud to claim a benefit to which he was not legally entitled.

4. A charge memo was issued to the first respondent on 01.08.2019. It is intended that he accepted that a mistake had occurred. An enquiry was conducted and documents relied were supplied to the first respondent. The Enquiry Officer submitted a report on 05.06.2020 concluding that the charges had been established. The first respondent gave his explanation. The Disciplinary Authority passed the final order on 31.07.2020 imposing penalty of dismissal from service. The Appeal filed was also dismissed by the Appellate Authority.



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5. The first respondent then preferred O.A.No. 159 of 2021 before the Tribunal. The Tribunal, by its order dated 10.03.2023 held that the enquiry proceedings were vitiated by not following proper procedure and in not examining any witnesses to prove the charges. The list of witnesses were not mentioned in Annexure – IV to the charge sheet. The Tribunal therefore set aside the punishment and directed fresh enquiry to be conducted. Challenging this order, the respondents before the Tribunal have filed the present Writ Petition.

6. Pending the Writ Petition, the first respondent died and his legal representatives have been substituted as third to sixth respondents.

7. Heard arguments advanced by Mr.V.Vijaya Shankar, learned Standing Counsel for the writ petitioners and Mr.R.Malaichamy, learned counsel for the third to sixth respondents.

8. Mr.V.Vijay Shankar, learned Standing Counsel for the writ



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petitioners contended that the fact that the first respondent had submitted bills on an application form issued by the office of the Accountant General (A&E) wherein he would not an employee and that he had thereafter made credit purchase from the Co-optex in November 2018 stood proved by the documents produced during the course of enquiry. The learned counsel stated that the documents spoke for themselves and there was no necessity for witnesses to be examined in support of the said documents. The learned counsel stated that the first respondent was employed in the office of the Accountant General (Audit-I) and was not eligible to avail the credit facility for purchase of the cloths from the Co-operative Department. It was therefore contended that since the documents stood established and had not been denied or disputed by the first respondent, the authorities had come to a correct conclusion that the charge had been proved. The learned Standing Counsel further contended that after following due procedure and after affording necessary opportunity, the punishment had been imposed by the disciplinary authority. He argued that the Tribunal should not have interfered with the said procedure adopted or with the punishment imposed.

9. Mr.R.Malaichamy, learned counsel for the third to sixth



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respondents, who were the legal representatives of the deceased first respondent however contended that the charge memo which had been issued was bereft of basic details. The learned counsel pointed out that it was mandatory for the Annexures which accompany a charge memo to include the list of documents which were relied on by the Department during the course of enquiry and also the list of witnesses, who would be called upon to speak about the said documents. The learned counsel stated that Annexure -III giving the list of documents and Annexure-IV giving the list of witnesses are mandatory to provide opportunity to any delinquent to question and challenge a charge memo issued during the departmental proceedings. It was contended that the Tribunal had correctly appreciated the fact that the due procedure had not been followed. The learned counsel further pointed out that the amount said to have been availed of by the first respondent had been recovered and paid back to the Department. The learned counsel stated that the first respondent had also died and therefore, the issue of re-enquiry as directed by the Tribunal would only be an exercise in futility and therefore urged that the order of dismissal must be set aside.

10. We have considered the arguments advanced and perused the



materials available on records.

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11. The first respondent E.Dineshkumar was working as Senior Auditor in the office of the Principal Accountant General (Audit-I). During festival times, there was a procedure granted to the employees to avail credit facilities to purchase clothes which should be purchased from Co-optex. This procedure is said to have been discontinued in the year 2018. The first respondent however produced an application form in November 2018 from the office of the Accountant General (A&E) wherein he was not an employee and availed credit facility for a sum of Rs.45,377/- and purchased clothes. It is contended that this purchase was after the scheme had been discontinued. It is not in dispute that the amount so availed had been recovered from the salary of the first respondent.

12. A charge memo was however issued to the first respondent. Any charge memo contains the charges alleged, the Statement of Imputations and Annexures giving the list of documents and the list of witnesses. Even if the documents were part of official records, they would still have to be proved through an independent witness. If no witness speaks for the document, it would only indicate that the enquiry officer, who performs the



duty to adjudicate on the issues also discharges the duty of being the person, who has proved the documents and had taken the document on record.

13. The enquiry officer cannot perform the duty of a witness. He remains an enquiry officer nothing more, nothing less. He should summon the officers of the Department, to speak up for the said documents. They should also be cross examined by the delinquent. This is not an empty formality. If a witness had been examined, the delinquent could have raised issues about the validity of the application form being issued by the office of the Accountant General (A&E). He should have raised the issue of the amount availed being deducted from the salary and therefore, there was no loss caused to the Department. He could have raised an issue about discontinuance or otherwise of the scheme and the applicability of said discontinuance to him as Senior Auditor. We hold that the first respondent was denied every opportunity during the departmental procedure.

14. We further hold that the Tribunal had correctly set aside the entire proceedings and had directed fresh enquiry. However, the first respondent has died during the pendency of the Writ Petition. His legal representatives alone are on record. They would be seriously handicapped



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if they were called upon to participate or even attend the departmental enquiry. Moreover the charges abate on the death of the public servant. The punishment of dismissal has already been set aside by the Tribunal. The issue of re-enquiry has now become otiose and incapable of being conducting owing to the death of the first respondent. We hold that no effective purpose will be served by conducting enquiry all over again. The procedure followed had been correctly set aside by the Tribunal. We find no reason to interfere with the same.

15. We further hold that the order of dismissal from service is extremely disproportionate to the nature of the charge alleged against the first respondent. The Disciplinary Authority should taken into consideration the fact that the amount advanced had been recovered from the first respondent.

16. In view of all these reasons, we hold that driving the parties to re-enquiry would be an exercise in futility particularly as the first respondent is dead. We would affirm the order of the Tribunal so far as setting aside the order of dismissal from service is concerned and also interfere with the order confirming re-enquiry on the entire issue.



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17. We specifically hold that the order of dismissal is set aside and the directions of the Tribunal to conduct re-enquiry is set aside. The Writ Petition stands dismissed. No order as to costs.

18. The writ petitioners are directed to release the terminal benefits, family pension and any other benefits payable to the family members of the first respondent payable till the date of superannuation of the first respondent with in a period of six weeks from this date.

[C.V.K., J.]

[K.B., J.]

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Index: Yes/No

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

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Pre-Delivery Order made in

W.P.No. 17116 of 2023



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