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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On: 02.11.2026	Delivered On: 12.11.2026

CORAM

THE HONOURABLE DR JUSTICE G. JAYACHANDRAN
and
THE HONOURABLE MR JUSTICE E. MANOHARAN

W.A.No.3112 of 2026

A. Nithyakalyani,
No.6/4, Krishnan Street,
Annai Nagar,
Govarthanagiri, Avadi,
Chennai 600 071.
At present residing at No.408,
Sampangi Tower,
Annupuram Township – 603 127. … Appellant/Petitioner

vs.

1. The Principal Secretary to
Government of Tamil Nadu
Health and Family Welfare Department (K1),
Fort St.George,
Chennai 600 009.

2.The Director
Directorate of Medical and Rural Health Welfare services,
DMS Compound,
Chennai 600 006.

3.The Joint Director of Health Services,
Government Hospital,
Kancheepuram 631 501.

4.The Medical Officer
Government Hospital,

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Thirukalukundram,
Kancheepuram District 603 109. … Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the order in W.P.No.426 of 2019, dated 10.04.2026.

For Appellant : Mr.Balan Haridas

For Respondents : Mr.K.Rajesh,
Government Advocate

J U D G M E N T

Dr. G. Jayachandran, J.

The appellant herein, for marrying a person who was already married and had a living spouse, was charged for misconduct as contemplated under Rule 19 of the Tamil Nadu Government Servants' Conduct Rules, 1973. Disciplinary proceedings initiated finally culminated in punishment of removal from service, after getting the opinion of the TNPSC. The order of dismissal dated 26.02.2018 was challenged by way of appeal to the Government. The said appeal was dismissed *vide* order dated 15.10.2018. The order passed by the Appellate Authority confirming the order of dismissal was the subject matter of Writ Petition No.426 of 2019.

2. The Learned Single Judge, after considering the contentions raised,

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dismissed the Writ Petition, holding that the punishment of removal from service under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 for violating Rule 19(2) of the Tamil Nadu Government Servants' Conduct Rules, 1973, does not call for any interference.

3. Aggrieved by the same, Intra-Court appeal is filed on the ground that the alleged misconduct involving moral turpitude does not fall within the scope and ambit of Rule 19(2) of Tamil Nadu Government Servants' Conduct Rules, 1973, which reads as below:

> *19. Bigamous marriages:-*
>
> *(1)…..*
>
> *(2) No Government servant involve himself in any act involving moral turpitude on his part including any unlawful act, which may cause embarrassment or which may bring discredit to Government.*

4. According to the Learned Counsel for the appellant, there is no proof for bigamous marriage and the criminal prosecution against her for abetting adultery ended in acquittal in the appeal filed by the appellant. The term "moral turpitude" is vague and does not relate to the personal life of the government servant. A woman begetting a child through a man whom she is

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not married would not amount to an act of 'moral turpitude' and such an act does not discredit the Government or cause embarrassment to the Government to attract punishment for moral turpitude.

5. The Learned Counsel appearing for the appellant further submitted that, based on the complaint given by one Tmt.V.Sujatha (wife of Vijayavelu), both criminal prosecution as well as disciplinary proceedings were initiated against the appellant. As per the complaint, the appellant has declared to the Government that the name of her husband is Ranganthan, which is recorded in her Service Register. While so, she had married Vijayavelu, who had a living spouse (the complainant). Through the void marriage, a girl child born to the appellant. In the birth certificate of that child, the child's father name is declared as Vijayavelu. The Learned Counsel for the appellant contends that there is no proof for marriage, though the affair with Vijayavelu is admitted. Unless marriage is proved, the ingredients of Rule 19 of the Tamil Nadu Government Servants' Conduct Rules will not get attracted.

6. Insofar as criminal prosecution is concerned, he contends that the Trial Court convicted the appellant. The same was challenged in appeal and

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pending appeal, the complainant and the accused settled the dispute, as a result, the case was compounded in Criminal Appeal No.265 of 2023 *vide* judgment dated 27.06.2024. While so, the 2nd respondent dismissed the appellant from service for reasons which were not factually correct. Further, the appellant was not provided with a copy of the opinion given by the TNPSC regarding the gravity of punishment. Omission to provide the vital document has deprived the appellant to contest her case effectively.

7. The Learned Government Advocate appearing for the respondents submitted that the appellant, who was working as a Staff Nurse in Government Headquarters Hospital, Thirukalukundram, Kancheepuram District, initially entered into service on a contract basis in the year 2007 and later her services were regularized with effect from 30.07.2009.

8. On a complaint given by Tmt.Sujatha, disciplinary proceedings was initiated against the appellant. The appellant, who went on medical leave from 17.03.2011 to 06.06.2011, gave birth to a female child on 18.03.2011. In the birth certificate of the child, the name of 'Vijayavelu' is shown as the father of the child, whereas, in her service records, she has mentioned 'Ranganathan' as her husband. To hide her misconduct, the appellant for her pre-natal and post -

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natal period had availed medical leave instead of Maternity Leave. When the complaint of V.Sujatha was taken up for domestic enquiry, charge framed against the appellant for misconduct attracting Rule 19(2) of the Tamil Nadu Government Servants Conduct Rules, 1973.

9. The appellant had not denied the birth of female child through Mr.Vijayavelu. Her only defence was that she had not married Vijayavelu and her relationship with Vijayavelu will not fall within the meaning of moral turpitude since it is her personal affair. Though for a Government Servant or any person for that matter it may be purely her personal affair to have a physical relationship with a married man which under law is a non-cognizable offence, when any of the parties aggrieved initiate criminal action, then it brings discredit and embarrassment to the Government if the delinquent is a public servant. Therefore, for the said misconduct, after due enquiry and approval from TNPSC, the appellant was terminated from service. Her further appeal against the order of dismissal failed. The Learned Judge, while considering the gravity of the misconduct, dismissed the writ petition holding that the moral turpitude proved against the appellant, hence she deserves dismissal from service.

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10. Heard the Learned Counsel appearing for the appellant and the Learned Government Advocate for the respondents.

(i) Rule 19 of the Tamil Nadu Government Servants' Conduct Rules, 1973, reads as below:-

> *19. Bigamous marriages - (1) (i) No Government servant shall, enter into or contract, a marriage with a person having a spouse living; and*
>
> *(ii) No Government servant having a spouse living shall enter into or contract a marriage with any person:*
>
> *Provided that the Government may permit a Government servant to enter into, or contract, any such marriage as is referred to in clause (i) or clause (ii) if they are satisfied that -*
>
> *(a) such marriage is permissible under the personal law applicable to such Government servant and the other party to the marriage; and*
>
> *(b) there are other grounds for so doing.*
>
> *(2) No Government servant involve himself in any act involving moral turpitude on his part including any unlawful act, which may cause embarrassment or which may bring discredit to Government.*

(ii) One of the proviso to Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, reads as below:-

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17 (a) ….

(b) Provided that in every case where it is necessary to consult the Tamil Nadu Public Service Commission, the disciplinary authority shall consult the Tamil Nadu Public Service Commission for its advice and such advice shall be taken into consideration before making an order imposing any such penalty:

11. As per the Rule, TNPSC is consulted. The Rule does not mandate to provide the copy of the opinion to the delinquent. Therefore, we find no force in this argument by the Appellant Counsel in this regard.

12. In the instant case, the facts which remain undisputed are:-

(i) The Service Record of the appellant shows the name of her husband as 'Ranganathan.'

(ii) The appellant, during the domestic enquiry has refused to give any further details about her husband Ranganathan.

(iii) The Appellant has given birth to a female child on 14.11.2011. In the birth certificate issued for that child, the names of her parents are shown as Mother: 'Nithyakalyani'(Appellant) and Father: 'Vijayavelu.'

(iv) In C.C.No.592/2012 on the file of XVIII Metropolitan Magistrate Saidapet, Chennai, on the private complaint given by V.Sujatha against her

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husband Vijayavelu for offences under Section 494 I.P.C and Nithyakalyani (Appellant) for offences under Section 494 I.P.C read with 109 I.P.C., both were found guilty and the appellant was sentenced to undergo 2 years R.I and Rs.5000/- fine or, in default, four months S.I.

13. As against the conviction and sentence, the appellant had filed Criminal Appeal No.265 of 2023 before the IV Additional Sessions Judge, Chennai. Before the Appellate Court, the parties (complainant and the accused/ appellant) entered into a compromise. The complainant/Sujatha had agreed to receive Rs.10 lakhs in installments and withdraw the complaint. Accordingly, the Appellate Court, considering the fact that the offence being non-cognizable and compoundable under Section 320(2) of Cr.P.C., with the permission of the Court, acquitted the appellant under Section 320(8) of Cr.P.C. Thus, from the undisputed fact, it is clear that the appellant had conducted herself unbecoming of a public servant, inviting disgrace to the Government. Due to her conduct, the criminal case against her been initiated and trial Court has found her guilty and convicted her. The acquittal by the Appellate Court is in view of compounding of the offence with the permission of the Court. This will only help her to avoid undergoing the sentence, but this will not wipe out the moral turpitude which has embarrassed the Government so as to invoke Rule 19(2) of the Conduct

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Rules. The criminal case and its end is sufficient to prove the Conduct of the delinquent employee has brought discredit to the Government. The Disciplinary Authority, the Appellate Authority and the Learned Judge in W.P.No.426 of 2019, have consistently held positively that her conduct has caused embarrassment and discredit to the Government. We find nothing to differ from the conclusion of the Learned Single Judge in W.P.No.426 of 2019.

14. Finally, the Learned Counsel for the appellant submitted that the subsequent event in this case has a relevance to mitigate the punishment. According to the Counsel, after conviction by the Trial Court, the complainant V.Sujatha had entered into compromise and consequently, the marriage between her and Vijayavelu got dissolved. That apart the criminal case also got compounded. Therefore, the major penalty of dismissal from service is unwarranted and the appellant may be reinstated into service without any continuity of service or monetary benefits arising from her past services.

15. In respect of the above submission, we are of the considered view that in service matters, the Writ Court need not revisit evidence except for the purpose of considering the proportionality of the punishment qua the delinquency. In this case, considering the facts and law as on the date of the

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charge memo, the punishment of dismissal from service is not disproportionate. Nonetheless, regarding the mitigating circumstances pointed out by the Appellant's Counsel, if any application/request is made by the appellant, the same may be considered by the respondent for her reinstatement into service without any past service benefits or to give her fresh appointment if she is otherwise found eligible as a special case. For the said purpose, we modify the order of "dismissal from service" as "removal from service." We make it clear that the above observation is not a direction, but a suggestion emanated due to the sweeping changes in the Societal behavior with respect to marital relationships and childbirth. In yesteryears, certain conduct which were neither legally nor morally right and considered as a stigmatic behavior, has changed. In recent days they are either decriminalized or termed as 'moral policing.'

16. In the result, the Writ Appeal is disposed of with the above modifications and observations. There shall be no order as to costs.

(Dr. G.J. J,) & (E.M. J,)

12 -11-2026

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Internet :Yes.
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To,

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Health and Family Welfare Department(K1),
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2.The Director,
Directorate of Medical and Rural Health Welfare services,
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4.The Medical Officer,
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Order QR

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Dr. G.JAYACHANDRAN, J.
&
E. MANOHARAN, J.

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Pre-Delivery judgment made in
W.A.No.3112 of 2026

Judgment delivered on
12-11-2026

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