



WEB COPY

WA No. 2583 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-02-2026

CORAM

**THE HONOURABLE Mr.JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN**

**WA No. 2583 of 2022
AND
CMP NO. 20379 OF 2022**

1. Agricultural Production
Commissioner
and Secretary to Government,
Agriculture Department, Secretariat,
Chennai 9.
2. The Commissioner of Agriculture
Department of Agriculture, Chepauk,
Chennai - 600 005.
3. The Joint Director of Agriculture
Agriculture Department, Cuddalore.

Appellant(s)

Vs

1. Madhivanan
S/o. Late Govindan,
No.63/176, O.S. Deen Building, West
Car Street, Chidambaram, Cuddalore
District.

Respondent(s)

PRAYER

Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 24.03.2022 made in WP.No. 9440 of 2012.



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For Appellant(s): Mr.Haja Nazirudeen
Additional Advocate General
assisted by Mr.M.Rajendiran
Additional Government Pleader

For Respondent(s): M/s.K. Rajkumar

JUDGEMENT

(Judgment of the Court was made by S.M.Subramaniam J.)

Under assail is the writ order dated 24.03.2022 passed in WP.No.9440 of 2012. State preferred the present intra-Court Appeal mainly on the ground that the respondent on transfer disobeyed the orders and approached the Tamil Nadu Administrative Tribunal challenging the same. Even after dismissal of the Original Application by the Tamil Nadu Administrative Tribunal, the respondent failed to join duty and finally joined duty on 04.04.1996 after remained unauthorisedly absent for about 17 months. The respondent was not attending duty from 07.11.1994 to 03.04.1996. The application filed challenging transfer before the Tribunal was dismissed on 14.09.1995 itself. Disciplinary proceeding was initiated under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. It is not in dispute that the Rules of natural justice has been followed by conducting a domestic enquiry and by affording opportunity to the respondent/delinquent official. Finally, the Government imposed the



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punishment of removal from service. The petitioner was holding the post of Agricultural Officer in the Department of Agriculture. The punishment of removal from service came to be challenged in the writ petition. The Writ Court found that the major punishment of removal from service is disproportionate and ordered for reinstatement without back wages. Thus, the State preferred the present Writ Appeal.

2.The learned Additional Advocate General would mainly contend that the respondent intentionally remained unauthorisedly absent only after the issuance of transfer order transferring him from Kattumannarkoil, Cuddalore District to Vellore. He attended before the Medical Board and the Board issued fitness certificate. Disobeying the medical opinion of the Board, he remained absent. The respondent had not attended duty for about 17 months and therefore, disciplinary proceedings was initiated under Rule 18(1) & (2) of Fundamental Rules read with Rule 23(a)(ii) of Tamil Nadu Leave Rules. The procedures as contemplated were followed. Rules of natural justice had been complied with. Thus, there is no infirmity in respect of the departmental disciplinary proceedings. Considering the gravity of the misconduct, which is grave in nature, the Government after obtaining necessary opinion from the



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Tamil Nadu Public Service Commission, imposed the penalty of removal from service. The Tamil Nadu Public Service Commission also concurred with the view taken by the Government and thus, the Writ Court ought not to have interfered with the quantum of punishment imposed by the Disciplinary Authority.

3.Mr.K.Rajkumar, learned counsel appearing on behalf of the respondent would oppose by stating that the punishment of removal from service incorporated in Fundamental Rules 18(3) was subsequently deleted. Therefore, imposition of penalty of removal for unauthorised absent *per se* is untenable. In the present case, the respondent submitted medical certificates to establish his ill-health. However, he joined duty on 04.04.1996 and served till the date of removal from service in the year 2011. His long service was not taken into consideration. The respondent was not facing any other disciplinary proceedings or gained adverse remark from his Superiors. For all these reasons, the Writ Court allowed the writ petition without back wages and thus, the Writ Appeal is to be rejected. Mr.K.Rajkumar, learned counsel would submit that the punishment of removal from service is not in commensuration with the gravity of the misconduct and therefore, the Writ Court has considered the penalty.



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4.This Court has considered the rival submissions made between the parties to the *lis* on hand.

5.The uncontraverted facts between the parties would show that the respondent joined as an Agricultural Officer in the Department of Agriculture in the year 1981. He served upto 1994 and an order of administrative transfer came to be issued on 07.10.1994 for transferring the respondent from Kattumannarkoil, Cuddalore District to Vellore. The respondent challenged the transfer order by filing the OA No.3240 of 1995 before the Tamil Nadu Administrative Tribunal. The Tribunal dismissed the Original Application on 14.09.1995. Review Application No.185 of 1995 filed by the respondent was dismissed by the Tribunal. Thereafter, he remained unauthorisedly absent and failed to join duty. The respondent states that he submitted medical leave application, which was not considered. However, the Department referred the respondent to the Medical Board and the Board issued fitness certificate. Even after the fitness certificate, he failed to join duty. Finally, the respondent joined duty on 04.04.1996 after remained unauthorisedly absent for about 17 months. From 1996 to 2011, till the removal order was issued in G.O.3D).No.231, Agriculture Department dated 21.11.2011, the respondent served in the



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Department and there is no disciplinary proceedings or adverse remarks against him. Thus, the respondent served as an Agricultural Officer in the Department from 1981 to 1994 (13 years) and 1996 to 2011 (14 years). Totally, he has completed 27 years of Government service and except this unauthorised absent, he had not faced any departmental proceedings nor suffered any punishment. The petitioner was due to retire from service on 30.06.2017 on attaining his age of superannuation.

7.The Writ Court has considered the length of services rendered by the respondent and allowed the writ petition without back wages.

8.This Court is of the considered view that perusal of the removal order passed by the Government in G.O.(3D).No.231 dated 21.11.2011 would show that the respondent has not denied the charges. He has not submitted any additional explanation except the explanation given by him regarding the medical certificate produced. Therefore, the unauthorised absent was proved before the enquiry proceedings. Based on the proved charges, the punishment of removal from service was imposed.

9.No doubt remaining unauthorisedly absent continuously for a period of 17 months is a grave misconduct under the Government Service Rules. A public



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servant is expected to perform his duty vigilantly and conduct himself in consonance with the Conduct Rules. Though the petitioner has challenged the order of transfer, he should have joined duty in the transferred place and would have contested the case before the Tribunal. In the present case, the Tribunal has not passed any interim order. Therefore, the respondent ought to have joined in the transferred place during the pendency of litigation before the Tamil Nadu Administrative Tribunal. Instead, he remained unauthorisedly absent for about 17 months continuously. That apart, the charges are proved. However, yet another fact to be considered is that, the respondent joined duty on 04.04.1996 after remained absent for about 17 months. But, the disciplinary proceeding was initiated against the respondent only through the charge memorandum dated 15.03.2004 after a lapse of eight years from the date of joining. There was an enormous delay in instituting the disciplinary proceedings that also to be taken into consideration, since in the present case, the major punishment of removal from service has been imposed. No doubt, the Rules of natural justice has been followed by the Department. The Charge Memorandum was issued. Opportunities were afforded to the respondent to defend his case. Enquiry Officer submitted his report holding that the charges are proved and the Disciplinary Authority imposed the punishment of removal from service. Thus,



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there is no infirmity in respect of the procedures followed as contemplated under the Tamil Nadu Civil Services (Discipline and Appeal) Rules.

10.The only point to be considered is that, whether the punishment of removal from service is in commensuration with the gravity of the proved misconduct? No doubt, the misconduct is proved. Proved misconduct though grave, the mitigating grounds in favour of the respondent are to be considered. The mitigating grounds are that, he served in the Department as an Agricultural Officer for about 27 years. He had not suffered any punishment nor faced any Department proceedings during the said service period. There was a long delay of eight years in initiation of disciplinary proceedings against the respondent. That apart, there is a possibility of *bona fide* belief that the Tribunal would grant some relief in respect of the transfer order or due to some legal advice, he would have remained absent during the pendency of the case before the Tribunal. These all are the mitigating circumstances resulted in unauthorised absent of the respondent from attending duty.

11.In such circumstances, normally the Courts will remand the matter. The High Court in exercise of powers of judicial review is not expected to modify or reduce or alter the punishments. Imposing punishment is the



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prerogative of the Disciplinary Authority. Therefore, modification of punishment normally would fall beyond the realm of the powers of judicial review. However, in the present case, the alleged misconduct occurred in between the year 1994 and 1996, the Charge Memorandum framed in the year 2004 and the punishment of removal was imposed in the year 2011. The Writ Petition came to be filed in the year 2012 and it was disposed of in the year 2022. Writ Appeal filed in the year 2022 and it is heard by this Court in the year 2026. Considering the long pendency of this matter and in order to avoid any further hardship to the litigant/respondent in the present case, who was an employee served in the Government Department for about 27 years, this Court is inclined to modify the Writ order by imposing the lessor punishment.

12. In view of the facts and circumstances, the impugned writ order dated 24.03.2022 passed in WP.No.9440 of 2012 is modified and the punishment of removal issued in G.O(3D).No.231 Agriculture Department dated 21.11.2011 is set aside. In lieu of the punishment of removal, this Court is inclined to impose the modified penalty of stoppage of increment for three years without cumulative effect to the respondent. Since the respondent has already attained the age of superannuation on 30.06.2017, by deducting the punishment amount,



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all other terminal and pensionary benefits are directed to be settled in favour of the respondent and the respondent is not entitled for back wages for the absent period from 07.11.1994 to 03.04.1996.

13. With the above modification, this Writ Appeal stands allowed in part.

No costs. Consequently, connected CMP is also closed.

(S.M.SUBRAMANIAM J.)(C.KUMARAPPAN J.)
23.02.2026

Index: Yes

Speaking order

Internet: Yes

Neutral Citation: Yes

kmi

To

1. Madhivanan

S/o. Late Govindan, No.63/176, O.S.

Deen Building, West Car Street,

Chidambaram, Cuddalore District.



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