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W.A.Nos.3835 & 3890 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2026

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE SHAMIM AHMED**

W.A.Nos.3835 & 3890 of 2025

Senthil ... Appellant in W.A.No.3835 of 2025

Thiyagarajan ... Appellant in W.A.No.3890 of 2025

-Vs-

1. The Additional Chief Secretary to the Government
of Tamil Nadu,
Home (Tr.II) Department,
Fort St.George,
Chennai – 600 009.

2. The Transport Commissioner,
Ezhilagam,
Chepauk,
Chennai – 600 005.

3. The Commissioner for Disciplinary Proceedings,
Coimbatore.

... Respondents
in both W.As

COMMON PRAYER : Appeals filed under Clause XV of Letters Patent,
against the orders dated 17.12.2024 in W.P.Nos.1215 & 1210 of 2022.



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For Appellants : Mr.K.Raja
in both W.As for Mr.Kaviveerappan

For Respondents : Mr.S.Yashwanth
in both W.As Additional Government Pleader

COMMON JUDGMENT

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

Since the issue raised in both these writ appeals is a common one arising out of the same disciplinary proceedings, we with the consent of the learned counsel appearing for both sides, heard both the matters together and disposed of by this common order.

2. The appellants were the employees of the respondent Department. While they were working in Regional Transport Office, Salem (West), a surprise check was conducted on 15.02.2013 by the Vigilance and Anti-Corruption officials and they allegedly found that, there were some irregularities of engaging private individuals to obtain illegal gratification on behalf of the appellants. Therefore, the charge memo dated 02.09.2014 was framed which was heard by the Tribunal for disciplinary proceedings, Coimbatore and based on the report given by the Tribunal, the punishment of stoppage of increment for three years with cumulative effect has been inflicted by the Disciplinary Authority against both the appellants by separate Government Orders,



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i.e., G.O.(2D)No.301, Home (Transport-II) Department, dated 01.12.2021 and G.O.(2D)No.302 of the same Department dated 01.12.2021.

3. Challenging these orders of punishment, the respective writ petitions, i.e., W.P.Nos.1215 & 1210 of 2022 were filed, both the writ petitions were separately disposed on the same day by the respective impugned orders dated 17.12.2024 by the writ Court, where the writ Court dismissed both the writ petitions. Aggrieved over the same, the present intra-Court appeals have been directed.

4. Heard Mr.K.Raja, learned counsel appearing for the appellants and Mr.S.Yashwanth, learned Additional Government Pleader appearing for the respondents.

5. Mr.K.Raja, learned counsel appearing for the appellants pointed out that, in both the writ petitions, the respective impugned orders were G.O.(2D)No.301, Home (Transport-II) Department, dated 01.12.2021 and G.O.(2D)No.302, Home (Transport-II) Department, dated 01.12.2021 whereby the punishment of stoppage of increment for three years with cumulative effect has been inflicted against the appellants. When this was questioned before the writ Court, the writ Court has taken the issue in different footing as if that the



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appellants / petitioners have sought for relief to get the promotion despite the punishment having been suffered by them. Only on that premises, both the writ petitions were dismissed by giving reasons that, in view of the sufferance of punishment by these appellants who were the writ petitioners, they are not entitled to get any further promotion, therefore, as against the punishment, if at all, they want to prefer any review under Section 37 of the Tamil Nadu Civil Services (Discipline & Appeal) Rules, they can prefer such review, with that liberty, the writ petitions were dismissed. This approach on the part of the writ Court may be an erroneous, the learned counsel appearing for the appellants would submit.

6. We have also heard Mr.S.Yashwanth, learned Additional Government Pleader appearing for the respondents who would submit that, even though there has been hostile of witness before the Tribunal and there has been no direct witness or evidence to establish the guilt that has been made through the charge memo respectively made against the appellants that would not *ipso facto* make them to claim that they are innocent. The reason being that, insofar as the disciplinary proceedings is concerned, it is only on the basis of preponderance of probability, the Disciplinary Authority can come to a conclusion to punish the erring staffs and officials or the employees on the basis of the Rules and therefore, in the present case also, the suspicious circumstances clearly



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demonstrate that they have been involving in such malpractice and therefore, they are liable to be punished, accordingly the punishment of stoppage of increment for three years with cumulative effect inflicted against them is justifiable, the learned Additional Government Pleader contended.

7. We have considered the said rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

8. The Disciplinary Tribunal after having analysed the evidence that were adduced before it has concluded like this:

“7. It is clear from the above analysis of evidence that all the crucial witnesses turned hostile before the Tribunal and took U-Turn from the signed statement what they had given to Cell officer (PW-1). It is settled principle of law that earlier statement of witness can be used only for contradiction by the opposite side and by no means could it be used as substantial evidence. No doubt there is strong suspicion against the accused officer but suspicion however it may be strong; it cannot replace the need of legal evidence. Nevertheless Government servant has to work with full devotion and should create such an environment that nobody could doubt. On this count I hold that all the accused officers failed to do his official duty with full devotion.



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8. Conclusion:-

After a careful analysis of the evidence on record oral, documentary and circumstantial, after due consideration of the facts and circumstances of the case I arrive at the conclusion that the charge against all the accused officers is partially proved on the scale of preponderance of probability.”

Similar finding had been given in another case also.

9. Therefore, it is a clear finding of the Tribunal that, all the crucial witnesses turned hostile before the Tribunal and took U-Turn from the signed statement what they have given to the Cell Officer. It is the further holding of the Tribunal that, it is a settled principle of law that earlier statement of witness can be used only for contradiction by the opposite side and by no means used as a substantial evidence. It is further observed by the Tribunal that, no doubt, there is strong suspicion against the accused officer but suspicion however it may be strong, it cannot replace the need of legal evidence.

10. Despite this categorical finding given by the Tribunal before the conclusion reached by the Tribunal, it has ultimately held that nevertheless Government servant has to work with full devotion and should create such an environment that nobody could doubt. On this count, the Tribunal held that, all the accused officers failed to do their official duty with full devotion.



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11. This finding only triggered the Disciplinary Authority to come to a conclusion that the officers have not done their duty with full devotion and based on the suspicion and doubt expressed by the Tribunal and based on these factors only, the Disciplinary Authority inflicted the punishment of withholding the increment for three years with cumulative effect being the one of the major punishment.

12. We are in complete disagreement with the Disciplinary Authority to take such a view because even to come to such preponderance of probability conclusion in the disciplinary proceedings there must be atleast some iota of evidence either orally or documentary. Here it is a categorical finding given by the Tribunal that, there has been no oral evidence nor documentary evidence. When that being so, mere suspicion or doubt of the Tribunal or Enquiry Officer would not make a situation under which the delinquents have to be punished that too a major punishment, therefore, it is a clear case where the Disciplinary Authority without any evidence or without any basis since inflicted the punishment of withholding the increment for three years with cumulative effect being the major punishment, we have no hesitation to hold that, such punishment is liable to be interfered with.



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13. However, the writ Court has understood the case as if that the respective writ petitioners sought for only promotion despite the punishment having been suffered by them and therefore, such plea must be rejected.

14. Nowhere, in the writ petitions, such plea has been raised and the prayer sought for in the writ petitions is only to quash the order of punishment respectively inflicted against the appellants / writ petitioners. Therefore, the approach of the writ Court no doubt is an erroneous one, hence, the impugned order in both the cases are liable to be interfered with.

15. In the result, the following orders are passed in these appeals:

(i) Both the impugned orders in the respective writ petitions which are appealed herein in the present appeals are liable to be set aside and accordingly, they are set aside and the respective impugned orders before the writ Court, i.e., G.O. (2D)No.301, Home (Transport-II) Department, dated 01.12.2021 and G.O.(2D)No.302, Home (Transport-II) Department, dated 01.12.2021 also are liable to be set aside and they are also set aside.

(ii) As a result, the appellants / writ petitioners are entitled to get the service benefits as if they were not punished by the impugned order and accordingly, such benefits accrued on them under the Service Rules shall be calculated and be extended to them as early as possible preferably, within a period of three months from the date of receipt of a copy of this judgment.



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16. With these directions, both the Writ Appeals are allowed. However, there shall be no order as to costs.

(R.S.K., J.) (S.S.A., J.)
07.01.2026

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

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