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WP No.26138 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-04-2026

CORAM

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

WP No. 26138 of 2021

and

WMP Nos.27591, 27592 and 27595 of 2021

S.Siddique
Municipal Commissioner (Retired),
No.6/194, Pallivasal Street,
Sakkarakottai,
Ramanathapuram- 623 504.

..Petitioner

Vs

1. Government of Tamil Nadu,
Represented by its Secretary to Government,
Municipal Administration and Water Supply
Department, Secretariat,
Chennai- 600 009.
2. The Commissioner of Municipal Administration,
No.75, Santhome High Road,
M.R.C. Nagar, Chennai- 600 028.
3. The Director of Local Fund Accounts,
Integrated Complex for finance Department,
4th Floor, Saidapet,
Animal Husbandry Hospital Campus,
Nandanam, Chennai- 600 035.

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, calling for records relating to impugned order of punishment of 1st Respondent issued in G.O. (D) No. 270, Municipal Administration and water Supply (ME. 2) Department dated



27.08.2021 and quash the same and consequently to direct the Respondents to settle the pension and DCRG amount due to the petitioner, with interest, within reasonable period as may be fixed by this Court.

For Petitioner : Mr.Ashok Kumar

For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The present writ petition has been filed challenging impugned order of punishment of first respondent issued in G.O. (D) No. 270, Municipal Administration and Water Supply (ME. 2) Department dated 27.08.2021 and consequently, direct respondents to settle pension and DCRG amount due to petitioner, with interest, within a reasonable period to be fixed by this Court.

2. The impugned order dated 27.08.2021 is challenged, primarily on three grounds viz.,

a) That the entire disciplinary proceedings was initiated only on the basis of audit objection, mere audit objection by itself cannot constitute the basis for initiation of disciplinary proceedings;

b) The charge memo dated 25.01.2010, wherein following charges were framed:

“i) “that Thiru.S.Siddique, Municipal Commissioner, Palani is responsible for the irregularities and Revenue loss



pointed out in the Special Audit Paras pending in Usilampatti, Nellikuppam, Melur, Ramanathapuram, Arcot, & Pudukottai as noted in Annexure-II A. The loss of revenue pointed out in the Special Audit Paras is to be recovered from him”.

ii) “that he had failed to take action to rectify the irregularities pointed out in the Special Audit Paras and thereby derelicted in his duties.” ”

does not contain Annexure IV, which is list of witnesses was sought to be examined.

c) Though charge memo was dated 25.01.2010, however impugned order of punishment has been passed on 27.08.2021, i.e. almost after 11 years, more importantly, it is also contrary to directions of this Court in W.P.(MD) No.3639 of 2012 dated 23.07.2012, wherein challenge was made to order dated 29.01.2010, whereby petitioner was not permitted to retire in view of pendency of disciplinary proceedings. The above writ petition came to be disposed of with following directions:

“13. In these circumstances, the first respondent is directed to complete the departmental proceedings pursuant to the charge memo dated 25.01.2010, within a period of 6 months from the date of receipt of a copy of this order. The first respondent is also directed to take into account the G.O.(Per) No.16, Municipal Administration and Water Supply Department, dated 18.01.1999, in disposing of the departmental proceedings. The first



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respondent is further directed to pay DCRG due to the petitioner after deducting the loses allegedly caused to the department, within a period of 8 weeks from the date of receipt of a copy of this order.”

3. Learned counsel for petitioner would submit that though there is a specific direction to respondents to complete departmental proceedings, within a period of 6 months, however, impugned order has been passed after almost 9 years since directions came to be issued by this Court.

4. For the purpose of disposing of present writ petition, it may not be relevant to decide first question inasmuch as this Court finds that there is merit in submission of learned counsel for petitioner while departmental proceedings are quasi judicial proceedings, however, in the absence of any witness being examined to prove documents, which is sought to be relied upon and if documents are merely tendered, the same by itself may vitiate disciplinary proceedings.

5. In this regard, reliance was sought to be placed by learned counsel for petitioner on the decision of this Court in W.P.No.12317 of 2016 dated 09.01.2023, wherein, it was held as under:

“6. The Hon'ble Supreme Court, in the case of [Roop Singh Negi Vs. Punjab National Bank and others](#) reported in 2009 (2) SCC 570, has held that the contents of the documents produced before an



Enquiry Officer requires to be substantiated through oral witnesses and in the absence of the same, the enquiry proceedings itself will

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stand vitiated. The relevant portion of the judgement reads as follows:-

"10. Indisputably, a departmental proceeding is a quasi judicial proceeding. The Enquiry Officer performs a quasi judicial function. The charges leveled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the Investigating Officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the Enquiry Officer on the FIR which could not have been treated as evidence. We have noticed hereinbefore that the only basic evidence whereupon reliance has been placed by the Enquiry Officer was the purported confession made by the appellant before the police. According to the appellant, he was forced to sign on the said confession, as he was tortured in the police station. Appellant being an employee of the bank, the said confession should have been proved. Some evidence should have been brought on record to show that he had indulged in stealing the bank draft book. Admittedly, there was no direct evidence. Even there was no indirect evidence. The tenor of the report demonstrates that the Enquiry Officer had made up his mind to find him guilty as otherwise he would not have proceeded on the basis that the offence was committed in such a manner that no evidence was left."

7. This apart, Rule 17(b) of the Rules provides that, when the charges imputed on a delinquent officer are not admitted by the



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person charged and which can be proved only through the evidence of witnesses, the Enquiry Officer shall conduct such an enquiry by examining the witnesses after giving due opportunity to the delinquent to cross examine the witnesses. However, contrary to the aforesaid Rule, the Disciplinary Authority, even at the stage of framing of the charges, has shown the list of witnesses to be examined in the enquiry as Nil. Apparently, the petitioner would also not be in a position to give an effective explanation to the famed charges in the absence of any witnesses.

8. The Hon'ble Supreme Court, in the case of *Bilaspur Raipur Kshetriya Gramin Bank and another Vs. Madanlal Tandon* reported in 2015 (2) CWC 317, had dealt with a similar situation and held that when no list of witnesses is supplied to the delinquent, it would amount to depriving him an opportunity to put forward his case in response to the show cause notice along with the charge sheet.

9. In the instant case, it is not in dispute that though four documents were produced before the Enquiry Officer, which includes the letter of the Secretary of State Schools Examination Board, dated 17.07.2003, no independent witness was examined to substantiate the contents of these documents. As a matter of fact, in Annexure-III of the charge memo, the details of the four documents have been mentioned, whereas in Annexure-IV, the list of witness is shown as Nil.

10. The very charge is based on the letter of the Secretary of State Schools Examination Board, dated 17.07.2003. A Perusal of the document shows that though the Secretary had opined that the document is bogus, he had not returned the bogus mark statement and had retained the same in their office itself. As such, the original mark statement bearing Registration No.551966/April 1991 was also not produced before the Enquiry Officer.

11. When the entire case revolves around the letter of the Secretary dated 17.07.2003, there was a duty cast on the respondents to substantiate that letter by proving its content thereon through a proper witness. In the absence of the same, the procedure adopted by the respondents would be opposed to the principle underlying Rule 17(b), as well as the ratio *laid down by* the Hon'ble Supreme Court in *Roop Singh Negi's* case (*supra*). As such, the consequential punishment and



the order-in-appeal, cannot be sustained, since the enquiry itself has stands vitiated.”

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6. Learned counsel for petitioner would then submit, in support of his other contention that there has been an inordinate delay in terminating proceedings, which vitiate the proceedings. He would place reliance upon judgment of the Hon'ble Supreme Court in the case of *P.V.Mahadevan, P.V. vs M.D.Tamil Nadu Housing Board* reported in (2005(4) C.T.C. 403), wherein it was held as under:

“It is not possible to lay down any predetermined principles applicable to all cases and in all situations where there is delay in concluding the disciplinary proceedings. Whether on that ground the disciplinary proceedings are to be terminated each case has to be examined on the facts and circumstances in that case. The essence of the matter is that the court has to take into consideration all the relevant factors and to balance and weigh them to determine if it is in the interest of clean and honest administration that the disciplinary proceedings should be allowed to terminate after delay particularly when the delay is abnormal and there is no explanation for the delay. The delinquent employee has a right that disciplinary proceedings against him are concluded expeditiously and he is not made to undergo mental agony and also monetary loss when these are unnecessarily prolonged without any fault on his part in delaying the proceedings. In considering whether the delay has vitiated the disciplinary proceedings the court has to consider the nature of charge, its complexity and on what account the delay has occurred. If the delay is unexplained prejudice to the delinquent employee is writ large on the face of it. It could also be seen as to how much the disciplinary authority is serious in pursuing the charges against its employee. It is the basic principle of administrative justice that an officer entrusted with a particular job has to perform his duties honestly, efficiently and in accordance with the rules. If he deviates from this path he is to suffer a penalty prescribed. Normally, disciplinary proceedings should be allowed to take their course as



per relevant rules but then delay defeats justice. Delay causes prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting the disciplinary proceedings. Ultimately, the court is to balance these two diverse considerations."

7. Learned counsel for petitioner would also place reliance upon judgment of Division Bench of this Court in WA No.1111 of 2017 dated 10.09.2007, wherein after finding that charge memo was on the basis of non settlement of audit objections, the disciplinary proceedings was found to be bad by placing reliance upon the judgment of the Hon'ble Supreme Court in the case of *Mahadevan, P.V* cited supra, while finding that charge sheet had been kept pending for more than three years.

8. Learned Special Government Pleader for respondents would place reliance on paragraph 13 of counter, which reads as under:

" 13. The averments in para 9 are denied as false and misleading. Even as on date the audit objections are pending in relation to the services of the petitioner as Municipal Commissioner in the municipalities of Paramakudi and Pudukottai. The said audit objections are pertaining to the period 2006-2007 and 2008-09. It is this sort of dereliction of duty that is being proceeded against and if not done, so it will result in the succeeding officers, not taking due care in their duties. When an officer is about to retire, the reports from the stations where he had served are sought for by the department in advance to the date of superannuation. All the reports received prior to the retirement of the petitioner were pertaining to the



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period right from the date of his first posting as a Commissioner. The objections right from 1997 had been pending without being addressed by the petitioner. Due to this the objections pertaining to huge sums of money had been pending. Only if the objections had been clarified and settled, the audits for the concerned years could have been completed. The petitioner has not at all taken due care to address the objections and has remained uncaring of the duties normally expected of him. Therefore the charges framed against him are completely justified.”

9. It is also brought to the notice of this Court by learned counsel for petitioner that audit objections have since been settled, as could be seen from communication dated 06.04.2016, which is reproduced hereunder:



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நகராட்சி நிர்வாகம் மற்றும் குடியியல் வழக்கு துறை

மேலும்
தேவநாடுவரை துறை
நகராட்சி நிர்வாகம் மற்றும்
குடியியல் வழக்கு துறை
மேலும் நகராட்சி,
மேலும்

மேலும்
நகராட்சி நிர்வாக ஆணையர்,
நகராட்சி நிர்வாக ஆணையரகம்
சேப்பாக்கம்
சென்னை

ந.க.எண். 526 /09/சி.புன் 06.04.2016

பார்வை

பெருள்: பணிபாளர் குழு - மேலும் நகராட்சி - திருவள்ளூர், ஆணையர்(புது) மேலும்
நகராட்சியில் பணிபுரிந்த 02.07.2001 முதல் 25.07.2002 வரை பணிபுரிந்த
காலத்திற்கு தனிக்கை தடை நிபந்தனை பத்திகள் நிபந்தி செய்த விபரம் வடிக
தேர்வித்தல் - தனிக்கை தடை நிபந்தனை பத்திகள் இல்லாத என்ற தனிக்கை
சமர்ப்பித்தல் - தொடர்பாக

பார்வை

1. இணை ஆணையர் நிர்வாகம், சென்னை அவர்களின் கடிதம்
நே.பு.க.எண்.2675/2010/சி.புன் 30.3.14
2. இல்லாதவை குறித்து என்சரிட்ட கடிதம் நாள்.01.03.2016
3. இணை ஆணையர் நிர்வாகம், சென்னை அவர்களின் கடிதம்
நே.பு.க.எண்.2675/2010/சி.புன் 01.04.2016

பார்வை-ல் கண்டுள்ள கடிதத்தில் தெரிவித்துள்ளது, இந்நகராட்சியில் 02.07.2001 முதல்
25.07.2002 வரை ஆணையராக பணிபுரிந்த திருவள்ளூர் துவக்கம் பணிபுரிந்த காலத்தில்
நிபந்தனையாக உள்ள தனிக்கை பத்திகள் அனைத்தும் நிபந்தனையின்றி முடிவாகி செல்லப்பட்டுள்ளது
என்ற விபரத்தை பணிபுரிந்த தெரிவித்துக் கொள்கிறேன், மேலும் பார்வை 2ல் கண்ட இல்லாதவை
கடிதம் மூலம் ஏற்கனவே பதில் வழங்கப்பட்டுள்ளது. படிவம் 1 முதல் 4 வரை பூர்த்திசெய்யப்பட்டு
இத்தகைய இணைத்து அனுப்பப்படுகிறது என்பதை பணிபுரிந்த தெரிவித்துக் கொள்கிறேன்.

ஆணையர்,
மேலும் நகராட்சி
6/6/16

இணைப்ப
படிவம் 1 முதல் படிவம் 4 வரை

நகல்



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He would submit that in view of above communication, the very basis for initiation of the disciplinary proceedings may no longer survive.

10. Learned counsel for petitioner would also place reliance upon judgment of this Court in W.P.No.1851 of 2021 dated 13.02.2025, on the issue whether plea of delay in completing disciplinary proceedings can be raised at the time when order of punishment is put to challenge. The relevant portion of judgment reads as under:

10. It is seen that though the petitioner in the affidavit had taken a categorical stand that the impugned proceedings were vitiated for delay and laches, the respondents did not categorically deny the same in the counter. The respondents merely stated that the petitioner had not raised the objection earlier. In my view, in the absence of any justifiable reasons for the delay, the mere fact that the petitioner had not earlier objected to the same, cannot be a ground for rejecting the said contention. In the counter, there is absolutely no denial of delay and laches. It is pertinent to note that the respondents are bound to specifically deny the averments. Mere denial for the sake of denial cannot be taken as an answer to specific allegations raised in the affidavit. When the petitioner had taken a specific stand that the entire proceedings were vitiated due to lapse of 6 years in initiating and concluding the proceedings, the respondents were bound to explain the delay.



11. The Hon'ble Supreme Court in the case of *State of A.P vs. N.Radhakishan*, reported in 1998 (4) SCC 154, on the aspect of delay in disciplinary proceedings held as follows:

“19.....Normally, disciplinary proceedings should be allowed to take its course as per relevant rules but then delay defeats justice. Delay causes prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting the disciplinary proceedings. Ultimately, the court is to balance these two diverse consideration.”

So also, in the judgment of the Hon'ble Supreme Court in the case of *State of Madhya Pradesh vs Bani Singh and another* reported in 1990 Supp SCC 738, the Hon'ble Supreme Court held that in the absence of an explanation for the inordinate delay it would be unfair to permit the continuation of the disciplinary proceedings.

12. The Division Bench of this court in the case of *Union of India and another Vs. Central Administrative Tribunal and another*, reported in 2005 (2) CTC 169, held that, “ The delay remains totally unexplained. Therefore, we have no hesitation at all in concluding that the ground of inordinate delay in proceeding with the departmental enquiry as *referred to above* by us, would come in the way of Government to continue with the enquiry any further.” I am therefore of the view that the disciplinary proceedings culminating in the impugned order of punishment cannot be sustained.”



11. This Court finds that there is merit in the submission of learned counsel for petitioner, therefore, impugned order dated 27.08.2021 is set aside and petitioner is entitled to all consequential benefits.

12. Accordingly, writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

08-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

MRN

To

1. The Secretary to Government,
Municipal Administration and Water Supply
Department,
Government of Tamil Nadu
Secretariat, Chennai- 600 009.
2. The Commissioner of Municipal
Administration,
No.75, Santhome High Road,
M.R.C. Nagar,
Chennai- 600 028.
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MOHAMMED SHAFFIQ, J.

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