



W.A.(MD)No.1352 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.02.2026

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

**W.A.(MD)No.1352 of 2021
and
C.M.P.(MD)No.5632 of 2021**

The Commissioner,
Dindigul Municipality,
Dindigul.

... Appellant

Vs.

1.State of Tamilnadu,
Rep. by its Secretary,
Department of Municipal Administration
and Water Supply,
Fort St.George,
Chennai - 9.

2.M.Perumal

... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD).No.17870 of 2013 dated 09.12.2019 on the file of this Court.



W.A.(MD)No.1352 of 2021

WEB COPY

For Appellant : Mr.J.Lawrance

**For Respondents : Mr.A.Baskaran,
Addl. Government Pleader for R1.
Mr.K.Thirumurugan for R2**

JUDGMENT
(By G.R.SWAMINATHAN, J.)

The employer has filed this writ appeal questioning the order dated 09.02.2019 passed by the learned Single Judge allowing W.P.(MD)No.17870 of 2013 filed by the second respondent herein.

2.The second respondent herein was employed as Sanitary Worker in Dindigul Municipal Corporation. Charge memo dated 19.03.2010 was issued. The charge framed against the employee was that he had misconducted himself by assaulting a few persons and got implicated in Crime No.718 of 2007 on the file of South Police Station, Dindigul. He was also placed under suspension. The criminal case was investigated and final report was filed. It was taken on file in C.C.No.114 of 2008 on the file of Judicial Magistrate No.III, Dindigul. The case ended in



W.A.(MD)No.1352 of 2021

acquittal on 18.11.2019. Following his acquittal, he was also reinstated in service. But charge memo was not dropped. Enquiry was conducted. The enquiry officer submitted his report holding that the charge framed against the employee not proved. However, the disciplinary authority dissented from the view of the enquiry officer and did not agree with the same. But without putting the delinquent on notice, final order was passed imposing the punishment of stoppage of increment for a period of two years with cumulative effect and the period of suspension was treated as one of loss of pay. Challenging the order dated 05.10.2010, W.P.(MD)No.17870 of 2013 was filed. The learned Single Judge set aside the said order and allowed the writ petition.

3.The question that calls for consideration is whether the learned Single Judge was right in granting relief to the employee / delinquent.

4.As already seen, the report of the enquiry officer was in favour of the delinquent. If the disciplinary authority wanted to deviate therefrom to come to a contra conclusion, before doing so, the delinquent must be put on notice. The Hon'ble Supreme Court in the decision reported in



W.A.(MD)No.1352 of 2021

(1998) 7 SCC 84 (Punjab National Bank Vs. Kunj Behari Misra) had

held as follows:-

“The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7(2). As a result thereof whenever the disciplinary authority disagrees with the inquiry authority on any article of charge then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the inquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the inquiry officer. The principles of natural justice, as we have already observed, require the authority, which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer.

The aforesaid conclusion, which we have arrived at, is also in consonance with the underlying principle enunciated by this Court in the case of Institute of Chartered Accountants (supra). While agreeing with the decision in Ram Kishan's case (supra), we are of the opinion that the contrary view expressed in



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W.A.(MD)No.1352 of 2021

S.S. Koshal and M.C. Saxena's cases (supra) do not lay down the correct law.”

5.In this case, the aforesaid procedure was not followed. As per Rule 8 of Tamil Nadu Municipal Service (Discipline and Appeal) Rules, 1970, before imposing the punishment on the delinquent, the delinquent must be heard and put on notice. The procedure set out in the rules was not followed.

6.More than anything else, the cause of action for initiating disciplinary action was implication of the employee in a criminal case. The criminal case ended in acquittal. The Hon'ble Supreme Court very recently in the decision reported in **2024 (1) SCC 175 (Ram Lal Vs. State of Rajasthan)** held that when the disciplinary action and the criminal prosecution are founded on the same set of facts, the disciplinary authority on the very same evidence cannot take a contra view.

7.In this view of the matter also, the order passed by the



W.A.(MD)No.1352 of 2021

disciplinary authority is vulnerable. Looked at from any angle, the approach of the learned Single Judge in granting relief to the employee cannot be faulted. The writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (R.K.M. J.)
20.02.2026

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:

The Secretary,
Department of Municipal Administration
and Water Supply,
Fort St.George, Chennai - 9.



WEB COPY



W.A.(MD)No.1352 of 2021



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W.A.(MD)No.1352 of 2021

G.R.SWAMINATHAN, J.
and
R.KALAIMATHI, J.

ias

W.A.(MD)No.1352 of 2021

20.02.2026