



W.A(MD)No.769 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2026

CORAM:

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**W.A(MD)No.769 of 2025
and
C.M.P(MD)No.5214 of 2025**

- 1.The State of Tamil Nadu
Rep. by its Principal Secretary,
Rural Development and Panchayat Raj
(E1) Department, Secretariat,
Chennai-9.
- 2.The Commissioner,
O/o.The Director of Rural Development
and Panchayat Raj,
Chennai-600 015.
- 3.The District Collector,
Dindigul District,
Dindigul.
- 4.The District Collector,
Theni District,
Theni.

... Appellants/Respondents 1,3,4 & 5

vs.



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1.M.S.Vijaya

..1st Respondent/Writ Petitioner

2.The Secretary,
Tamil Nadu Public Service Commission,
Presar Paala Salai,
Chennai-600 003.

..2nd Respondent/2nd Respondent

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to allow this writ appeal and set aside the order passed in W.P(MD)No.7797 of 2017, dated 07.11.2023.

For Appellants	: Mr.S.P.Maharajan Special Government Pleader
For R1	: Mr.H.Mohammed Imran for M/s.Ajmal Associates
For R2	: No appearance

JUDGMENT

[Judgment of the Court was made by M.JOTHIRAMAN,J.)

The order dated 07.11.2023 passed in W.P.(MD) No. 9979 of 2017 is under challenge.



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2. Originally, the first respondent/writ petitioner filed a writ petition challenging the impugned order passed by the first appellant in G.O.Ms. (P) No. 107, Rural Development and Panchayat Raj (E1) Department, dated 08.03.2017.

3. According to the appellants, while the first respondent was serving as Assistant Project Officer (Rural) and had earlier held full additional charge as District Panchayat Secretary, Theni, she was charge-sheeted under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955, vide charge memo dated 04.08.2008 issued by the fourth appellant, the District Collector, Theni, pursuant to G.O.Ms. No.19, Personnel and Administrative Reforms (N) Department, dated 11.02.2008, and nine charges were framed against her.

Charge No.1:

That she has not followed the instructions issued by the Collector on 09.09.2007 and without following the tender rules, proceeded to call for the quotations for the purchase of street lights to the value of Rs.20 lakhs on 09.08.2007 and approved the same without knowledge of the Collector.

Charge No.2:



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Charge No.3:

That she did not follow the Rule 14(3) of Transparency in Tender Rules while issuing notice.

Charge No.4:

That without following the Tender rules prescribing the conditions that for all the works/purchases exceeding Rs.10 lakhs paper publication is absolutely essential.

Charge No.5:

That she deliberately violated the Rule 10(1) of the said rules that local market rates shall be considered before finalising the tender.

Charge No.6:

That she had failed to deduct 2.5 % income tax from the supplier and thus caused loss to the revenue to the tune of Rs.1,29,931/-.

Charge No.7:

That she had failed to collect 4% Sales Tax in the bill amount and thus



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Charge No.8:

That she had failed to with held 10% of bill value.

Charge No.9:

That she had failed to maintain the absolute integrity and devotion to duty and thereby violated Rule 20(1) of the Tamil Nadu Government Servants Conduct Rules 1973.

4. The first respondent submitted her explanation on 04.09.2008, denying the charges. Thereafter, an Enquiry Officer was appointed, who conducted the enquiry. According to the first respondent, no witnesses were listed in Annexure No. IV of the charge memo, and only three documents were relied upon. However, the Enquiry Officer referred to documents that were not mentioned in the charge memo, without furnishing copies to the first respondent or giving prior intimation. Similarly, although no witnesses were cited in the charge memo, the appellants produced and examined witnesses during the departmental enquiry. The Enquiry Officer failed to consider the explanation submitted by the first respondent and merely reiterated the charges, concluding that they stood proved.



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5. It is seen from records, the Enquiry Officer submitted a report on 18.06.2009, to which she submitted her further explanation. Meanwhile, she attained the age of superannuation on 31.01.2009 and was permitted to retire, without prejudice to the pending departmental proceedings, vide G.O. Ms. No. 47 dated 29.01.2009. In the meantime, the first appellant, vide her letter dated 13.05.2010, sought a reply regarding the proposed punishment of recovery from the DCRG amount. She submitted her explanation on 15.06.2010, refuting the proposed punishment. Thereafter, no order was passed for a considerable period, and only after a lapse of four years another notice dated 21.04.2015 was issued, calling for her acceptance of the proposed punishment. She again submitted her explanation on 01.06.2015. Even thereafter, no action was taken for a further period of two years. While that being the position, the first appellant, vide proceedings in G.O.Ms(P).No.107, Rural Development and Panchayat Raj (E1) Department, dated 08.03.2017, imposed the punishment of recovery of the entire DCRG amount, apart from recovery of Rs.12,070/-. Aggrieved over the same, the first respondent preferred the writ petition.



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6. The learned Writ Court, by order dated 07.11.2023, allowed the writ petition and modified the punishment by directing that the appellants shall deduct only a sum of Rs.50,000/- from the DCRG, and the balance amount of DCRG shall be paid to the writ petitioner. The appellants shall not deduct any amount from the pension and if the appellants deduct any amount over and above Rs. 50,000/- the same shall be refunded. Aggrieved over the same, the State has preferred the present appeal.

7. The learned Special Government Pleader appearing for the appellants submitted that the Enquiry Officer conducted the enquiry in accordance with the procedures contemplated under the Tamil Nadu Civil Services (Discipline and Appeal) Rules 1955. The first respondent, who appeared before the Enquiry Officer, did not deny the charges. On the contrary, she stated that she had passed the orders based on the resolution of the District Panchayat dated 17.08.2007 and under pressure from the Chairman and Members of the District Panchayat. Therefore, it is clear that she did not deny the charges. It is further submitted that the learned Writ Court cannot act as an appellate authority in departmental proceedings. The first respondent participated in the enquiry and submitted her



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detailed explanation, which was considered by the Enquiry Officer, who concluded that the charges were proved. The enquiry report reveals that the first respondent had violated the instructions of the District Collector as well as the Government Orders issued in accordance with the Tender Transparency Act and the rules framed thereunder.

8. It is further contended that, since the first respondent had already retired, the Government, upon completion of the enquiry, held that the charges were proved and that she was responsible for the loss caused to the Government. The learned Writ Court erred in observing that the subsequent incumbent failed to cancel the project, whereas the work order had already been issued by the first respondent on 23.10.2007, and therefore, cancellation did not arise and also erred in modifying the punishment without proper consideration of the findings of the Enquiry Officer is unsustainable in law.

9. Per contra, the learned counsel appearing for the first respondent submitted that the Enquiry Officer failed to properly consider her explanation and merely reiterated the charges while concluding that they were proved. It is further



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submitted that the charge memo did not contain a list of witnesses. However, during the enquiry, one Manoharan, Secretary of the District Panchayat, was examined on 24.12.2008, without affording an opportunity to the respondent to cross-examine him. Though the enquiry report was submitted as early as on 18.06.2009, the impugned order was passed only after a lapse of eight years, on 08.03.2017, without any explanation for such delay. Punishment imposed on the first respondent is disproportionate to the delinquent. Upon considering all the aspects, the learned Writ Court rightly modified the punishment.

11. We have considered the submissions made on either side and perused the records.

12. It is seen from the records that the appellants issued a charge memo under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 under G.O.Ms.No.19, Personnel and Administrative Reforms Department dated 11.02.2008 framing nine charges against the first respondent. The charge memo was served on 04.08.2008 and she submitted her explanation on 04.09.2008 denying the charges. Thereafter, Thiru.Devanathan, Project Officer



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(Women Project), Theni District, was appointed as Enquiry Officer by the then District Collector, Theni on 10.09.2008. The first respondent appeared before the Enquiry Officer and the enquiry was conducted. She also submitted a written statement. The first respondent requested the Enquiry Officer to examine one Manoharan, Secretary, District Panchayat. In pursuance of the request made by the first respondent, the said Manoharan was examined on 24.12.2008. However, it is to be noted that no opportunity was afforded to the first respondent to cross-examine the said witness. The enquiry report does not indicate whether such an opportunity was given. Further, the report does not contain any list of witnesses examined or documents marked as exhibits, nor does it refer to the documents cited in the charge memo. The Enquiry Officer appears to have proceeded as though the first respondent had admitted the charges.

13. At this juncture, it is relevant to cite the judgment of the Hon'ble Apex Court in the case of *State of Andhra Pradesh v S.Sree Rama Rao [AIR 1963 SC 1723]*, is extracted as under

“7. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of

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the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution.”

14. Further in ***Union of India v. P. Gunasekaran [(2015) 2 SCC 610]***, the Hon’ble Apex Court held as under :

“13. Under Articles 226 / 227 of the Constitution of India, the High Court shall not :

- (i) re-appreciate the evidence;*
- (ii) interfere with the conclusions in the enquiry, in the case the same*



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has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based;

(vi) correct the error of fact however grave it may appear to be;

*(vii) go into the proportionality of punishment **unless it shocks its conscience.***

15. Keeping the above principles in mind, this Court has carefully examined the nature of the charges, the evidence adduced in the departmental proceedings, and the proportionality of the punishment imposed. It is settled law that while the scope of judicial review in disciplinary matters is limited and this Court does not ordinarily re-appreciate evidence or interfere with the findings of fact recorded by the disciplinary authority, the doctrine of proportionality is an established ground for judicial interference where the punishment imposed is shockingly disproportionate to the gravity of the misconduct proved. In the present case, though the charges against the delinquent stand established to a certain extent, the penalty imposed appears to be excessive and not proportional to either the nature of the allegations or the attendant circumstances, including the



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absence of grave financial loss, lack of mala fide intention, and the past service record of the delinquent.

16. It is to be noted that though the charge memo was issued as early as on 04.08.2008 and the disciplinary proceedings was concluded only in the year 2009 and the impugned order was passed only with an inordinate delay of 9 years in the year 2017. Since the first respondent was allowed to retire from service as early as on 31.01.2009. We are of the view that the punishment is highly disproportionate and does not commensurate with the charges. The learned Writ Court has rightly modified the punishment and we find no reason to interfere with the same. We find no merit in the writ appeal and it is liable to be dismissed.

17. Accordingly, the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[N.S.K.,J.] [M.J.R.,J.]
23.03.2026

NCC : Yes / No
Index : Yes / No
am

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To

The Secretary,
Tamil Nadu Public Service Commission,
Presar Paala Salai,
Chennai-600 003.

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N.SATHISH KUMAR,J.
and
M.JOTHIRAMAN,J.

am

ORDER MADE IN
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DATED : 23.03.2026