

W.P.No.34611 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2026

WEB COPY

CORAM

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.P.No.34611 of 2022

P.Sivakumar

... Petitioner

Vs.

1. Union of India,
Rep. By The Joint Secretary,
Ministry of Agriculture
(Co-operation & Farmers' Welfare)
New Delhi – 110 001.

2. The Board of Directors,
The Tamil Nadu Circle Postal
Co-operative Bank Ltd.,
18/19, Jahangir Street,
2nd Line Beach,
Chennai – 600 001.

3. The President,
The Tamil Nadu Circle Postal,
Co-operative Bank Ltd.,
18/19, Jahangir Street,
2nd Line Beach,
Chennai – 600 001.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus, calling for the records of
the respondents 2 and 3 in impugned proceedings bearing



W.P.No.34611 of 2022

GF/Establishment/2022 dated 04.06.2022 and quash the same and consequently issued necessary direction by directing the respondents to re-instate the petitioner as Peon in the third respondent Bank with effect from 29.10.2005 with all back wages, continuity of service and other monetary benefits.

For Petitioner : Mr.S.Udayakumar

For Respondents : Mr.V.T.Balaji,
Central Government Senior Panel
Counsel (for R1)
Mr.P.Rajendiran (for R2 & R3)

ORDER

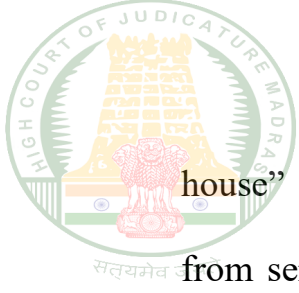
The present Writ Petition has been filed challenging the order dated 04.06.2022. The charge against the petitioner is that he was unauthorisedly absent from service for more than 20 months.

2. The contention of the learned counsel for the petitioner is that the very punishment of removal from service imposed on 11.11.2005 was issued by an incompetent person. According to By-Law No.65(13), the authority competent to impose the punishment of dismissal or removal from service is only the Board of Directors or the Sub-Committee constituted by the President and two other members. Therefore, it is the contention of the

*W.P.No.34611 of 2022*

learned counsel for the petitioner that the very order was issued by an incompetent person and, hence, the same is liable to be interfered with. It is further submitted that the petitioner's absence for more than 20 months was not on account of any deliberate act, but due to his medical condition. Further, the Appellate Authority has also not considered the said aspect. Hence, he prayed to allow the present Writ Petition.

3. The said contention was stoutly opposed by the learned counsel appearing for the second and third respondents and would contend that the present Writ Petition is not maintainable. It is also the submission of the learned counsel that, after the expiry of his medical leave, viz., from 20.12.2003 to 02.02.2004, the petitioner did not report for duty. A show-cause notice was issued to him on 01.09.2004 by registered post, which was returned with the postal endorsement "not present". By way of providing another opportunity, a final show-cause notice was issued to him on 25.02.2005, which was also returned with the postal endorsement "party out of station". Only thereafter, an order of removal from service was issued to him on 11.11.2005. It was the Disciplinary Action Sub-Committee which had taken into account the fact that all the registered letters sent to him were returned with the postal endorsements "not present", "party always not in

*W.P.No.34611 of 2022*

house” and “party out of station”, and ultimately resolved to remove him from service. The said order was communicated to him by the President of the Bank on 11.11.2005.

WEB COPY

3.1. It is the further contention of the learned counsel for the second and third respondents that the decision was not taken by the President, but the decision of the Disciplinary Action Sub-Committee was communicated by the President to the Bank, as directed by Board Resolution No.272 dated 20.09.2005. He would further submit that there was a delay in preferring the appeal, which clearly exhibits the conduct of the petitioner while discharging his official responsibilities. He would further submit that there are no grounds to interfere with the impugned order. Hence, he prayed to dismiss the present Writ Petition.

4. I have given my anxious consideration to the submissions made on either side.

5. In this case, the main attack against the original punishment, viz., the order of removal from service dated 11.11.2005, is that the same was issued by an incompetent person. According to the petitioner, By-Law No.65(13) confers the power to impose such punishment on the Sub-
4/10



W.P.No.34611 of 2022

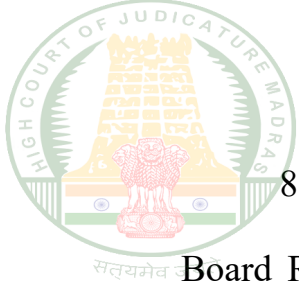
Committee, whereas, in the case in hand, the punishment was imposed by the President. The petitioner has also enclosed the order dated 11.11.2005.

WEB COPY

6. On close scrutiny of the above order, it is seen that the President has only communicated the said order in pursuance of Board Resolution No.272 dated 29.10.2005. It is relevant to mention that, in the counter-affidavit, the respondents have taken a specific stand that the decision to remove the petitioner from service was taken by the Disciplinary Action Sub-Committee and that the said decision was communicated to the petitioner pursuant to the Board Resolution. The Sub-Committee or the Board can only act through a human agency like the President. Merely because the President has signed the document, it does not mean that the decision was taken by him.

7. It is relevant to extract the proceedings of the third respondent dated 11.11.2005, which reads as follows:-

“In pursuance of the Board resolution in the reference cited, Thiru.P.Sivakumar Peon is hereby informed that he is removed from the service of the Bank on the afternoon of 29.10.2005, for his unauthorized absent from duty from 02.02.2004 as per the service conditions to the Employees of the Bank.”



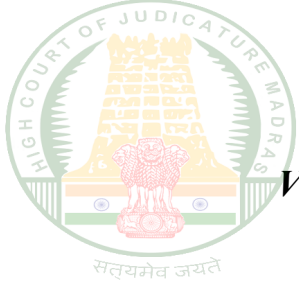
W.P.No.34611 of 2022

8. The above order very explicitly states that, in pursuance of the Board Resolution, the petitioner was removed from service. Therefore, the contention regarding incompetency has no legs to stand, in view of the fact that the decision to impose the punishment of removal from service against the petitioner was taken by the Disciplinary Action Sub-Committee and was intimated to the petitioner pursuant to the Board Resolution. Even the Reviewing Authority, on 04.06.2022, while considering this aspect, has also taken into consideration the conduct of the petitioner in respect of his reticence from the date of removal from service and his petition to the President of the Bank in the year 2009.

9. Be that as it may, it is a well-settled principle of law that the power of judicial review has to be exercised with great care and caution. Judicial review is not akin to an appellate remedy so as to re-appreciate the entire evidence. In this regard, this Court would like to refer to the following judgments:-

(i) *B.C.Chaturvedi Vs. Union of India* reported in (1995) 6 SCC 749

(ii) *Deputy General Manager (Appellate Authority)*



W.P.No.34611 of 2022

Vs. Ajai Kumar Srivastava reported in (2021) 2 SCC 61.

(iii) The Indian Oil Corporation & Ors., Vs. Ajit Kumar Singh & Anr., reported in 2023 LiveLaw (SC) 478.

Through the above judgements, the following principles are emerging:-

(i) Power of Judicial review is not like an appeal. But such power is meant to ensure that the individual receives fair treatment and the compliance of natural justice.

(ii) The power of judicial review is not like an appellate remedy to substitute its own finding, unless the findings of the Original Authority and Appellate Authority is perverse and without evidence.

(iii) The High Court had no jurisdiction to review the penalty, unless the same is shockingly disproportionate.

(iv) The mere possibility to arrive at yet another finding, cannot be a reason to substitute the finding of the disciplinary Authority.

(v) The judicial review is meant only to ensure fairness in treatment and not to ensure fairness of conclusion.

(vi) While exercising the power of judicial review, so long as there is some evidence to support the conclusion arrived at by the original authority, the same has to be sustained.

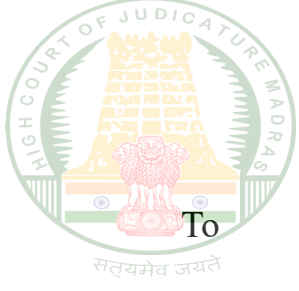
*W.P.No.34611 of 2022*

10. In the impugned order, the Board took cognizance in respect of all the aspects including the mitigating circumstances and ultimately found that there are no reason to interfere with the punishment imposed against the petitioner. As rightly observed in the impugned order, when there is an unauthorized absence of 20 months, the punishment of removal from service cannot be stated as disproportionate. Certainly such 20 months unauthorized absence would have definitely caused dislocation in the work. It is well settled principles of law that, unless the punishment is shocking to the conscience of the Court, the question of interfering with the punishment does not arise. As already observed, this Court does not find any disproportionality in respect of the imposition of the punishment, as, according to this Court, the punishment is proportionate to the gravity of the charges. Accordingly, this Court does not find any grounds to interfere with the impugned order.

11. In the result, this Writ Petition is dismissed. No costs.

28.08.2026

kv
Index : Yes
Speaking Order
Neutral Citation : Yes



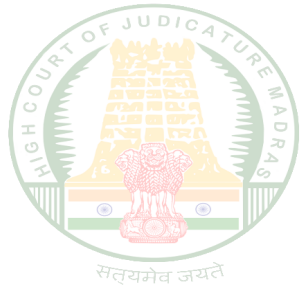
W.P.No.34611 of 2022

To

1. Union of India,
Rep. By The Joint Secretary,
Ministry of Agriculture
(Co-operation & Farmers' Welfare)
New Delhi – 110 001.

2. The Board of Directors,
The Tamil Nadu Circle Postal
Co-operative Bank Ltd.,
18/19, Jahangir Street,
2nd Line Beach,
Chennai – 600 001.

3. The President,
The Tamil Nadu Circle Postal,
Co-operative Bank Ltd.,
18/19, Jahangir Street,
2nd Line Beach,
Chennai – 600 001.



WEB COPY



W.P.No.34611 of 2022

C.KUMARAPPAN, J.

kv

W.P.No.34611 of 2022

28.08.2026