IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-03-2026

CORAM

THE HON'BLE MS. JUSTICE **P.T. ASHA**

W.P. No. 45865 of 2025

R.Kesavarajan ..Petitioner

Vs

1.The State of Tamil Nadu
Rep. by the Additional Chief Secretary to Government,
Tourism, Culture and Religious Endowments Department,
Fort St.George,
Chennai - 600 009.

2.The Commissioner,
Hindu Religious and Charitable Endowment Department,
Nungambakkam,
Chennai - 600 034.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai Region-III, RK Mutt Road, Mylapore,
Chennai-600 004.

4.The Executive Officer
Arulmighu Yoganarasimha Swamy Temple,
Velachery,
Chennai – 600 042. ..Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the entire records connected with G.O. (Pa) No. 403, dated 03.11.2025 passed by the first respondent and proceedings taken in pursuance of the impugned order and quash the same.

For Petitioner	:	Mr.S.N.Ravichandran
For Respondent(s)	:	Mr.S.Ravichandran Additional Government Pleader (HR&CE)

ORDER

The Writ Petition is filed to quash the Government Order passed in G.O. (Pa) No.403, Tourism, Culture and Religious Endowments Department, dated 03.11.2025 passed by the first respondent and the proceedings taken in pursuance of the impugned order.

2. It is the case of the petitioner that he had joined the services of the Hindu Religious and Charitable Endowments Department as a Grade-III Executive Officer on 16.10.2000. While so, on 25.01.2008 the third respondent had issued a charge memo invoking the Section 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules (hereinafter referred to as "Rules") framing four charges as under:

a) That, the petitioner has not physically prevented the illegal construction took place at Door No.1, Lakshmipuram 3rd Street, Velacherry, Chennai – 42 situated in S.No.20/1 & 20/2 measuring 2360 Sq. ft. encroached by Balakrishnan.,

b) That, the petitioner did not intimate the 3rd Respondent about the illegal constructions made by the said Balakrishnan upon the said property even until completion of the first floor and no lawful action has been taken to prevent the said illegal constructions.,

c) That, the petitioner has acted repugnant to the temple interest thereby issuing NOC dated 21.01.2007 for obtaining Corporation Assessment and an undated NOC pertaining to obtaining TNEB, Water Supply & Sewerage connections without obtaining sanction from the Department, thus enabling the said encroacher to establish his lease hold rights upon the said property.,

d) That, the petitioner has falsely intimated the 3rd Respondent vide letter dated 25.01.2008 stating that the illegal constructions were prevented, but vide the letter dated 21.07.2007 he had issued NOC to the said Balakrishnan, thus committed dereliction of duty.

3. It is the case of the petitioner that prior to the issue of this charge memo, there was no show-cause notice calling for an explanation. Immediately on the very same day, the petitioner was suspended from service. He had given a detailed explanation to the third respondent on 14.02.2008 denying each of the allegation levelled against him and contended that there was neither a lapse nor a misconduct on his part warranting issue of a charge memo. Without considering the explanation, the second respondent appointed one Mr.Devendran, Deputy Commissioner of HR & CE, as Enquiry Officer vide its proceedings dated 20.05.2008.

4. The petitioner would submit that the very charges are defective inasmuch as they are vague and bereft of any specificity. That apart, though the charges does not constitute a misconduct or lapse or negligence and further, no loss has been caused to the respondents. Therefore, the charge memo does not attract Section 17(b) of the Rules.

5. It is the further case of the petitioner that during the enquiry, neither were the charges read out to him nor was he permitted to have the assistance of the co-employee in the enquiry. The documents that had been listed in Annexure-III to the charge memo was also not furnished to the petitioner despite his several requests. Further, the respondents did not propose to examine any witness as Annexure-IV dealing with the list of witnesses was shown as nil. The petitioner would submit that there was no Presenting Officer on behalf of the department and the Enquiry Officer performed the role of both the Judge as well as the Prosecutor and ultimately, held the petitioner to be guilty. Further, though Annexure-IV had indicated that there was no witnesses it appears that the Enquiry Officer had examined the persons behind the back of the petitioner. He would submit that the enquiry was therefore tainted.

6. The Enquiry Officer had held the charges 1 to 3 as proved and the charge 4 as not proved.

7. The petitioner had also, after the enquiry report was furnished to him, submitted an explanation on 17.02.2010 to the third respondent contending that the temple had never suffered a loss and the charges were pre-mature. Further, by letter dated 03.04.2008 the said Balakrishnan had voluntarily come forward to donate for the superstructure of the fourth respondent temple and agreed to pay fair rent. In confirmation of which, he had executed a gift deed

dated 17.11.2008 bequeathing the entire superstructure to the temple. It is his case that none of this was taken note of by the second respondent who proceeded to impose a punishment of stoppage of increment cut for a period of two years without cumulative effect by his order dated 18.07.2010 which is once again a non-speaking order.

8. The petitioner would submit that as a result of the enquiry, his name was not sponsored for promotion to the post of Grade-II Executive Officer and by reason of the pendency of this enquiry proceedings, the petitioner had lost five promotion panels that took place between 2008 and 2011.

9. Against the order of the second respondent dated 18.07.2010, the petitioner had submitted a review petition to the second respondent himself which was rejected by order dated 11.02.2013. Thereafter, on 19.07.2013, he was promoted to the post of Grade-II Executive Officer under the 2013 panel. In view of his workload the petitioner was unable to immediately prefer an appeal against the punishment imposed against him by the second respondent. He had preferred an appeal on 14.07.2017 with a condone delay application. This application was dismissed and challenging the same, the petitioner had filed W.P.No.30359/2023. By order dated 03.09.2024, this Court had remanded the matter back to the first respondent to decide on the condone delay petition and pass a detailed order, if the first respondent were to dismiss the application.

If the first respondent was considering in favour of the petitioner by condoning the delay, the first respondent was directed to decide the case on merits and pass a speaking order.

10. Thereafter, the condone delay application was dismissed on 03.09.2024. Against which, a review petition dated 21.11.2024 was filed by the petitioner pursuant to which the first respondent had condoned the delay.

11. After considering the appeal petition, the petitioner was under the fond hope that he would be exonerated of all the charges. However, the first respondent had modified the order to one of censure. Aggrieved by the same, the petitioner is before this Court.

12. A counter affidavit has been filed wherein the respondents would justify the order of censure and contend that the departmental enquiry had not been challenged by the petitioner and therefore, the Writ Petition deserves to be dismissed.

13. Heard the learned Counsel on either side and perused the impugned order.

14. A mere perusal of the impugned order would clearly indicate that

neither the explanation of the petitioner nor the objection raised by him against the order of stoppage of increment has been taken into consideration. The respondent has proceeded to modify the order to one of censure without assigning any reason whatsoever for the same. In paragraph 7 of the said order, the first respondent has stated as follows:

> "7. திரு.ஆர்.கேசவராஜன், செயல் அலுவலர் (நிலை-1) அரசிடம்சமர்ப்பித்த மறு ஆய்வுமனுவினை உரிய ஆவணங்களை கொண்டு அரசு சுயமாகவும், கவனமுடனும் பரிசீலனை செய்தது. தனியர் மீது தமிழ்நாடு குடிமைப் பணிகள் (ஒழுங்கு மற்றும் மேல்முறையீடு) விதிகளில், விதி 17(b)-ன்கீழ் தொடரப்பட்ட ஒழுங்கு நடவடிக்கையில்இந்து சமய அறநிலையத்துறை ஆணையரால விதிக்கப்பட்ட இரண்டு ஊதிய உயர்வினை திரண்ட பயனின்றி இரண்டாண்டுகளுக்கு நிறுத்தம் (stoppage of two increments for two years without cumulative effect) எனும் தண்டனையினை "கண்டனம்" (Censure) எனும் தண்டனையாக மாற்றலாம என அரசு முடிவு செய்து, அவ்வாறே ஆணையிடுகிறது."

15. Further, the charge memo which is the genesis for the proceedings is vague and does not disclose the loss that the petitioner has caused to the department. The Enquiry Officer has proceeded to mulct the petitioner with the liability merely on surmises and conjectures which is evident from a perusal of his report. The fact that the charge does not give dates in respect of the encroachment. The construction being put up by the said Balakrishnan has been glossed over by the Enquiry Officer. Without there being any proof of the

petitioner's involvement in the alleged incidents set out in the charge memo, punishing him firstly with "stoppage of two increments for years without cumulative effect" later modified as "censure" is *per se* erroneous. Further, the first respondent has failed to advert to the petitioner's explanation and objections and has mechanically passed a non-speaking order. The explanation will clearly show how the petitioner cannot be visited with punishment. The impugned order cannot be sustained and accordingly, the Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition, if any, is closed.

16-03-2026

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

To

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   Tourism, Culture and Religious Endowments Department,
   Fort St.George,
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2. The Commissioner,
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P.T.ASHA, J.

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