

R.O.C.No. 177/2010/C1

CIRCULAR

Sub : Appeals – Virudhunagar District – Disciplinary Proceedings –  
Tmt. G. Kammadachi, Masalchi – Charge under Rule 17(b) –  
TNCS (D&A) Rules framed – Final Orders passed – Removed  
from Service – Administrative Appeal – Preferred – Considered –  
Orders passed – Removal set aside – Reinstatement and  
stoppage of increment ordered – Copy of the order is circulated  
for guidance – Forwarding of – Reg.

Read: 1) Appeal Petition of Tmt. G. Kammadachi dated: 3.11.2009.  
2) Final Order of the Principal District Judge, Srivilliputhur, dated: 7.10.2009.  
3) Entire enquiry file.  
4) High Court's Order in R.O.C.No.177/2010/C1 ; dated 04.06.2013.

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As directed, a copy of the order in R.O.C.No.177/2010/C1, dated 04.06.2013, is  
circulated herewith for future guidance, since there exists confusion among the Judicial  
Officers as to the competency of the concerned Officers to initiate disciplinary  
proceedings.

The receipt of this circular along with its enclosures are required to be acknowledged.

High Court, Madras.

Dated: 07.07.2013.

Registrar General.

To

1. All The Principal District Judges / District Judges )( With a request to bring the
2. All The Chief Judicial Magistrates. )( Circular to the knowledge of the
3. The Principal Judge, City Civil Court, Chennai. )( Judicial Officers under their
- )( control.
4. The Director, Tamil Nadu Judicial Academy,  
Malligai, 30, Greenways Road, R.A.Puram, Chennai-28.
5. The Registrar (Administration), High Court, Madras.
6. The Registrar (Administration), Madurai Bench of Madras High Court,  
Madurai. (5 Copies)
7. The Assistant Registrars (Administration), High Court, Madras.
8. The Sub-Assistant Registrars, (A.D.I & II, Accounts/Estt.), High Court, Madras
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R.O.C No.177/2010/C1

Sub : Appeals - Virudhunagar District - Disciplinary proceedings -

Tmt. G. Kammadachi, Masalchi - charge under Rule 17(b) TNCS (D & A)

Rules framed - Final Order passed - removed from service -

Administrative Appeal - Preferred - considered - orders passed - removal set aside - reinstatement and stoppage of increment ordered.

Read: 1) Appeal Petition of Tmt. G. Kammadachi dated: 3.11.2009.

2) Final Order of the Principal District Judge, Srivilliputhur, dated: 7.10.2009.

3) Entire enquiry file.

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ORDER:

"THE APPEAL:

1. This Administrative Appeal has been preferred by Tmt. G. Kammadachi, who was a Masalchi in the Court of District Judge, Virudhunagar District @ Srivilliputhur as against the Final Order of Principal District Judge, dated 7.10.2009, removing her from service.

FACTS:

2. On 8.09.2006, Tmt. Kammadachi was appointed as Masalchi by the Principal District Judge, Srivilliputhur. She was posted to the Sub Court, Srivilliputhur. On 15.10.2008, the Principal District Judge transferred her to District Munsif's Court, Aruppukottai. She was relieved on the afternoon of 16.10.2008 with a direction to report to her new office on 17.10.2008. However, she did not do so. On 21.10.2008, the District Munsif, Aruppukottai reported this to the Principal District Judge. On 24.10.2008, the Principal District Judge directed the District Munsif, Aruppukottai to take appropriate action against her. On 3.11.2008, the District Munsif called for explanation from her. On 10.11.2008, the District Munsif having found her explanation dated 12.11.2008 not satisfactory framed a charge under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 (hereinafter, in short, T.N.C.S.(D & A) Rules) for her willful refusal to join duty and submitted the charge to the Principal District Judge. On 6.03.2009, the Principal District Judge appointed the Additional District Judge (F.T.C.), Virudhunagar as Enquiry Officer. He conducted the enquiry and submitted his report to the Principal District Judge to the effect that the charge stood proved. A copy of the report was given to the delinquent. After perusing her further explanation, on 7.10.2009, the Principal District Judge passed the impugned Final Order removing her from service.



3. In this appeal, the appellant contends that (i) for the misconduct complained, a charge for minor penalties under Rule 17(a) of T.N.C.S.(D & A) Rules is proper and a charge for major penalties under Rule 17(b)(i) of the said Rules is uncalled for, (ii) since the appellant had not at all worked under the District Munsif, Aruppukottai, he is not her immediate superior officer, so he cannot initiate disciplinary action against her, (iii) since the District Munsif, Aruppukottai is not her appointing authority, he cannot frame a charge for major penalty under Rule 17(b)(i) of the said Rules and (iv) the punishment imposed is not proportionate to the misconduct. Now, we shall proceed to appreciate these grounds one by one.

PROCEEDINGS :

4. The District Munsif, Aruppukottai, is a member of State Judicial Service. With reference to the appellant, he is an higher authority. He is an immediate superior officer. As such, as per Rule 14(a)(1) of T.N.C.S.(D & A) Rules, he is empowered to impose minor penalties contemplated under the Rules and also order suspension of erring staff under Rule 17(e).

6. It is relevant here to note that in REGISTRAR OF CO-OPERATIVE SOCIETIES, MADRAS AND ANOTHER Vs. F.X.FERNANDO [1994(2)SCC 746], for the post of Joint Registrar, Co-operative Societies, the Government is the Appointing and Disciplinary Authority. However, by a G.O., it had directed the Registrar of Co-operative Societies to initiate disciplinary action against a Joint Registrar for certain alleged misconduct and the Registrar framed the charges. When the competency of the Registrar was questioned, it was held by the Hon'ble Supreme Court that he did not do so

on his own, he had done on the instruction of the Government, namely, appointing authority.

7. The principle laid down in the said case squarely applies to the facts of this case.

8. So, the contention that since at the relevant time, the District Munsif, Aruppukottai is not the immediate superior officer of the appellant, he cannot initiate disciplinary action against her fails.

#### NATURE OF CHARGE

9. In spite of written orders of the Principal District Judge, dated 16.10.2008, the appellant had refused to join in the Court of District Munsif, Aruppukottai. It is willful refusal. It is in insubordination to orders of the higher authorities. It is disrespectful of the orders of the superior officer. She lacks devotion to her duty. It will affect the morale of other staff. It is a conduct unbecoming of a Government servant. It is a serious misconduct. Thus, framing of a charge under Rule 17(b) of T.N.C.S.(D & A) Rules envisaging imposition of major penalty against her cannot be faulted.

#### COMPETENCY OF THE DIST. MUNSIF TO FRAME MAJOR CHARGE :

10. The post of Masalchi comes under Class III, Category 44 of the Tamil Nadu Basic Service Rules. The Principal District Judge, Srivilliputhur is her Appointing Authority. T.N.C.S.(D & A) Rules applies to her. As per its Rule 14(a)(2), major penalties can be imposed by Appointing Authority following the procedure prescribed under Rule 17(b)(i). As per Rule 14(a)(1), District Munsif, Aruppukottai can impose only minor penalties following the procedure prescribed under Rule 14(a)(1).

11. Now, in this case, on 10.12.2008, as against the appellant, the District Munsif, Aruppukottai, who has power to impose minor penalties, has framed a charge under Rule 17(b)(i). The question is can he do so?

12. In a long line of decisions, this aspect has been considered and settled by the Hon'ble Apex Court.

13. In STATE OF MADHYA PRADESH AND OTHERS Vs. SHARDUL SINGH [1970(1)SCC 108], the S.I. of Police was appointed by I.G. of Police. For certain serious allegations, the Superintendent of Police, framed charges against the S.I. Warranting



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imposition of major penalty, conducted the enquiry and submitted his positive findings through the D.I.G. to the I.G., who dismissed him from service. As before us, it was contended that the S.P. being not an appointing authority cannot initiate disciplinary action for imposition of major penalty.

Repelling the contention, the Hon'ble Apex Court held as under:-

"6. Article 311(1) provides that no person who is a member of Civil Service of the Union or of an All-India Service or Civil Service of a State or holds civil post under the Union or State shall be dismissed or removed by an authority subordinate to that by which he was appointed. This Article does not in terms require that the authority empowered under that provision to dismiss or remove an official, should itself initiate or conduct the enquiry preceding the dismissal or removal of the officer or even that that enquiry should be done at its instance. The only right guaranteed to a civil servant under that provision is that he shall not be dismissed or removed by an authority subordinate to that by which he was appointed...."

14. In *P.V. SRINIVASA SASTRY AND OTHERS vs. CONTROLLER AND AUDITOR GENERAL AND OTHERS* [1993 (1) SCC 419], for certain category of staff, the Accountant General was the appointing authority. However, the Senior Deputy Accountant General initiated departmental proceedings as against such category of staff and based on his enquiry report, the Accountant General passed Final Order reducing the staff to a lower rank. It was contended that the Senior Deputy Accountant General being not their appointing authority has no power to initiate such a disciplinary proceedings.

Referring to *SHARDUL SINGH* (supra), the Hon'ble Apex Court held as under:-

"4. Article 311(1) says that no person who is a member of a civil service of the Union or an all-India service or a civil service of a State or holds civil post under the Union or a State "shall be dismissed or removed by an authority subordinate to that by which he was appointed". Whether this guarantee includes within itself the guarantee that even the disciplinary proceeding should be initiated only by the appointing authority? It is well known that departmental proceeding consists of several stages: the initiation of the proceeding, the inquiry in respect of the charges levelled against that delinquent officer and the final order which is passed after the conclusion of the inquiry. Article 311(1) guarantees that no person who is a member of a civil service of the Union or a State shall be dismissed or removed by an authority subordinate to that by which he was appointed. But Article 311(1) does not say that even the departmental proceeding must be initiated only by the appointing authority. However, it is open to Union of India or a State Government to make

any rule prescribing that even the proceeding against any delinquent officer shall be initiated by an officer not subordinate to the appointing authority. Any such rule shall not be inconsistent with Article 311 of the Constitution because it will amount to providing an additional safeguard or protection to the holder of a civil post. But in absence of any such rule, this right or guarantee does not flow from Article 311 of the Constitution. It need not be pointed out that initiation of a departmental proceeding per se does not visit the officer concerned with any evil consequences, and the framers of the Constitution did not consider it necessary to guarantee even that to holders of civil posts under the Union of India or under the State Government. At the same time this will not give right to authorities having the same rank as that of the officer against whom proceeding is to be initiated to take a decision whether any such proceeding should be initiated. In absence of a rule, any superior authority who can be held to be the controlling authority, can initiate such proceeding.

Although Article 311 of the Constitution does not speak as to who shall initiate the disciplinary proceedings but, as already stated above, that can be provided and prescribed by the rules. But if no rules have been framed, saying as to who shall initiate the departmental proceedings, then on the basis of Article 311 of the Constitution it cannot be urged that it is only the appointing authority and no officer subordinate to such authority can initiate the departmental proceeding. In the present case, it was not brought to our notice that any rule prescribes that the Accountant General, who is the appointing authority, alone could have initiated a departmental proceeding."

15. In FERNANDO (supra), the Hon'ble Apex Court reiterated its ratios in SHARDUL SINGH (supra) and SRINIVASA SASTRY (supra).

16. In TRANSPORT COMMISSIONER, MADRAS Vs. A.RADHAKRISHNAMOORTHY, [1995 (1) SCC 332], a contention that the disciplinary proceedings have been initiated by an authority lower than the appointing authority of the delinquent was placed.

Repelling the contention, the Hon'ble Apex Court held as under:-

"8. Insofar as initiation of enquiry by an officer subordinate to the appointing authority is concerned, it is well settled now that it is unobjectionable. The initiation can be by an officer subordinate to the appointing authority. Only the dismissal/removal shall not be by an authority subordinate to the appointing authority....."

17. In INSPECTOR GENERAL OF POLICE AND ANOTHER Vs. THAVASIAPPAN [1996(2) SCC 145], there was corruption allegation against a S.I. Of



Police. D.S.P. framed charges against him for imposing major penalty. He also conducted the enquiry. Based on his positive report, the D.I.G., who is the appointing authority, compulsorily retired the S.I. It was contended that since the D.S.P. is not his appointing authority, he is incompetent to initiate the said disciplinary proceedings.

The Hon'ble Apex Court, referring to SRINIVASA SASTRY (supra) and RADHAKRISHNAMOORTHY (supra), held as under:-

"9. As to who shall initiate and conduct a disciplinary proceeding, the Rules are silent. Rule 2-A which provides that the Governor or any other authority empowered by him may institute disciplinary proceedings is an enabling provision. From the way it is worded it is not possible to infer that the rule-making authority intended to take away the power of otherwise competent authorities, like the appointing authority, disciplinary authority or controlling authority and confine it to the authorities mentioned in Rule 2-A only. Moreover, it is difficult to appreciate how this provision can be helpful in deciding whether the charge should be framed and the enquiry should be held by that authority only which is competent to impose the penalties mentioned in Rule 3(b)(i). An act of instituting a disciplinary proceeding is quite different from conducting an enquiry. Rule 3(b)(i) provides how an enquiry should be held in a case where it is proposed to impose on a member of the service any of the penalties specified in clauses (d), (h), (i) and (j) of Rule 2. It lays down the different steps that have to be taken in the course of the enquiry proceeding. This rule is completely silent as regards the person who should perform those acts except that the report of the enquiry has to be prepared by the authority holding the enquiry. Rule 3(b)(i) itself contemplates that the enquiry officer may not be the authority competent to impose the penalties referred to therein and that becomes apparent from the second para of that sub-rule. If it was intended by the rule-making authority that the disciplinary authority should itself frame the charge and hold the enquiry then it would not have provided that a report of the enquiry shall be prepared by the authority holding the enquiry whether or not such authority is competent to impose the penalty. Generally speaking, it is not necessary that the charges should be framed by the authority competent to award the proposed penalty or that the enquiry should be conducted by such authority. We do not find anything in the rules which would induce us to read in Rule 3(b)(i) such a requirement. In our opinion, the view taken by the Tribunal that in a case falling under Rule 3(b) the charge memo should be issued by the disciplinary authority empowered to impose the penalties referred to therein and if the charge memo is issued by any lower authority then only that penalty can be imposed which that lower authority is competent to award, is clearly erroneous....."

18. In *DIRECTOR GENERAL, ESI AND ANOTHER Vs. T.ABDUL RAZAK* [1996 (4) SCC 708], the Hon'ble Apex Court reiterated its ratios in *SHARDUL SINGH* (supra) and *SRINIVASA SASTRY* (supra).

19. In *STEEL AUTHORITY OF INDIA AND ANOTHER Vs. Dr. R.K.DIWAKAR AND OTHERS* [1997 (11) SCC 17], when the initiation of disciplinary proceedings by an authority other than the appointing authority was questioned, the Hon'ble Apex Court held as under:-

"4. Before us, the learned counsel appearing for the appellants, apart from bringing to our notice the relevant proceedings duly delegating the power to the Director, Medical and Health Services, invited our attention to a recent decision of this Court in *Director General, ESI v. T. Abdul Razak*<sup>1</sup>. In that case, in answering an identical question, this Court held as follows: (SCC p. 716, para 13)

"13. ... With regard to initiation of disciplinary proceedings by the Regional Director, we find that the legal position is well settled that it is not necessary that the authority competent to impose the penalty must initiate the disciplinary proceedings and that the proceedings can be initiated by any superior authority who can be held to be the controlling authority who may be an officer subordinate to the appointing authority.

(See: *State of M.P. v. Sherdul Singh*<sup>2</sup>, *P.V. Srinivasa Sastry v. Comptroller & Auditor General*<sup>3</sup> and *Inspector General of Police v. Thavasiappan*<sup>4</sup>.) The Regional Director, being the officer-in-charge of the region, was the controlling authority in respect of the respondents. He could institute the disciplinary proceedings against the respondents even in the absence of specific conferment of a power in that regard.

20. In *STATE OF U.P. AND ANOTHER Vs. CHANDRAPAL SINGH AND ANOTHER* [2003 (4) SCC 670], for the post of Asst. Agriculture Inspector, the Director of Agriculture was the appointing authority. For certain serious irregularities, the District Agriculture Officer framed charges against an Asst. Agriculture Inspector, conducted enquiry, submitted his report and based on that, the Director of Agriculture dismissed the delinquent from service. It was contended that the District Agriculture Officer is incompetent to initiate disciplinary proceedings since he is not the appointing authority.

The Hon'ble Apex Court after referring to *SHARDUL SINGH* (supra), *SRINIVASA SASTRY* (supra), *FERNANDO* (supra) and *THAVASIAPPAN* (supra), rejected the contention and held as under :



"8. Thus, looking to the terms and content of Article 311(1) of the Constitution, it does not follow that even initiation or conduct of inquiry proceedings should be by that authority itself which is empowered to dismiss or remove an official under the said article, unless there is an express rule governing the official requiring it to be so."

21. In the latest decision in *SECRETARY, MINISTRY OF DEFENCE AND OTHERS Vs. PRABHASH CHANDRA MIRDHA* [2012 (11) SCC 565], an Assistant Foreman in the Ordnance Factory, was issued with a charge memo for alleged demand of bribe. The charge memo was challenged on the ground that it had been issued to the delinquent by the authority not competent to do so being subordinate to his appointing authority.

The Hon'ble Apex Court reviewed the case laws on the point and rejected the contention and observed as under:-

"4. The legal proposition has been laid down by this Court while interpreting the provisions of Article 311 of the Constitution of India that the removal and dismissal of a delinquent on misconduct must be by the authority not below the appointing authority. However, it does not mean that disciplinary proceedings may not be initiated against the delinquent by the authority lower than the appointing authority.

5. It is permissible for an authority, higher than the appointing authority to initiate the proceedings and impose punishment in case he is not the appellate authority so that the delinquent may not lose the right of appeal. In other case, the delinquent has to prove as to what prejudice has been caused to him. (Vide *Sampuran Singh v. State of Punjab* [1982 (3) SCC 200], *Surjit Ghosh v. United Commercial Bank* [1995 (2) SCC 474], *Balbir Chand v. Food Corporation of India Ltd.* [1997 (3) SCC 371] and *A. Sudhakar v. Postmaster General* [2006 (4) SCC 348].)

6. In *Inspector General of Police v. Thavasiappan* this Court reconsidered its earlier judgments on the issue and came to the conclusion that there is nothing in law which inhibits the authority subordinate to the appointing authority to initiate disciplinary proceedings or issue charge memo and it is certainly not necessary that charges should be framed by the authority competent to award the punishment or that the inquiry should be conducted by such an authority. In *SAIL v. R.K. Diwakar* and *State of U.P. v. Chandrapal Singh*, a similar view has been reiterated.

7. In *Transport Commr. v. A. Radha Krishna Moorthy*, this Court held: (SCC p. 335, para 8)

"8. Insofar as initiation of enquiry by an officer subordinate to the appointing authority is concerned, it is well settled now that it is unobjectionable. The initiation can be by an officer subordinate to the appointing authority. Only the dismissal/removal shall not be by an authority subordinate to the appointing authority. Accordingly it is held that this was not a permissible ground for quashing the charges by the Tribunal."

[See also E.S.L. Vs. T. Abdul Razak and Coal India Ltd. Vs. Ananta Saha (2011 (5) SCC 142).

22. Thus, Article 311 of the Constitution of India guarantees security of service to the members of the State/Union service or holders of civil post under either Government that they shall not be dismissed or removed from service or reduced to a lower rank by an authority who is subordinate to the appointing authority. Thus, major penalties can be imposed on the staff only by their appointing authority.

23. The service conditions of staff are regulated by the Service Rules applicable to them. In the Rules, certain authorities, who may not be the appointing authority, may be specified to initiate disciplinary proceedings, then that authority can initiate disciplinary action. However, if the Rules are silent as to the initiation of disciplinary action, then any authority other than the appointing authority but not lower in rank to the delinquent, can also initiate disciplinary action.

24. In T.N.C.S.(D & A) Rules, in Rule 9(c)(2) as regards institution of disciplinary proceedings, it is provided as under:-

"The authority competent under these rules to impose any of the penalties specified in items (i) to (iii) and (v) of rule 8 may institute disciplinary proceedings against any Government servant for the imposition of any of the penalties specified in items (iv) and (vi) to (viii) to rule 8 notwithstanding the fact that such authority is not competent under these rules to impose any of the latter mentioned penalties."

25. The said Rules empowers an authority, who has got powers to impose minor penalties, can also initiate disciplinary proceedings under Rule 17(b), which envisages imposition of major penalties. But as stated already, major penalty can be imposed only by the appointing authority.



26. Thus, in the light of the above decisions and the legal position, the contention that the District Munsif, Aruppukottai, who has power to impose only minor penalty and who is not her appointing authority, cannot initiate disciplinary proceedings under Rule 17(b) of the T.N.C.S.(D & A) Rules for imposing major penalty fails.

#### QUANTUM OF PUNISHMENT

27. The appellant was transferred from Sub Court, Srivilliputhur to District Munsif's Court, Aruppukottai. She was relieved on the afternoon of 16.10.2008 and was directed to join duty on 17.10.2008 at Aruppukottai. But, she did not do so. In her explanation dated 12.11.2008, she also admit this. She had refused to join duty. Only during the enquiry stage, she gave some lame excuses. The fact remains that from the forenoon of 17.10.2008, she did not join duty at the new station. Her willful refusal has been established. For this, in his impugned Final Order dated 7.10.2009, the Principal District Judge imposed the major penalty of her removal from service.

28. Infliction of punishment should be in consideration of the nature of charge established and the mitigating circumstances, if any pertaining to the delinquent.

29. In B. C. CHATURVEDI Vs. UNION OF INDIA [1995 (6) SCC 749], while dealing with the quantum of punishment, a three-Judge Bench of Hon'ble Apex Court held as under:-

18. A review of the above legal position would establish that the disciplinary authority, and on appeal the appellate authority, being fact-finding authorities have exclusive power to consider the evidence with a view to maintain discipline. They are invested with the discretion to impose appropriate punishment keeping in view the magnitude or gravity of the misconduct. The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof."

30. In COLOUR-CHEM LTD., Vs. A.L. ALASPURKAR [1998 (3) SCC 192], a three-Judge Bench of the Hon'ble Apex Court held that if the punishment imposed is shockingly disproportionate to the charges held proved against the employee, it can be interfered.

31. In STATE BANK OF INDIA & OTHERS Vs. T.J. PAUL [1998 (2) LLJ 923 (D.B) (KERALA)], it was held as under:-

"High Court in exercise of its discretionary powers can interfere with the quantum of punishment where the punishment is not only disproportionate to the proved charges but also harsh and excessive and the Court can impose appropriate punishment in exceptionally rare cases to shorten the life of litigation."

32. In U.P. STATE ROAD TRANSPORT CORPN., AND OTHERS Vs. MAHESH KUMAR MISHRA AND OTHERS [2000 (3) SCC 450], referring to CHATURVEDI (supra), the Apex Court observed as under:-

"8. This will show that not only this Court but also the High Court can interfere with the punishment inflicted upon the delinquent employee if, that penalty, shocks the conscience of the Court. The law, therefore, is not, as contended by the learned counsel for the appellants, that the High Court can, in no circumstance, interfere with the quantum of punishment imposed upon a delinquent employee after disciplinary proceedings."

33. Before awarding punishment, the Disciplinary Authority has to see the nature of the misconduct established and also the mitigating circumstances concerning the delinquent. In the case before us, in the impugned Final Order, dated 7.10.2009, the Principal District Judge not at all adverted to these aspects and straight away ordered her removal from service.

34. The appellant was appointed as Masalchi on 8.09.2006, when she was 38 years old. She had refused to obey the transfer orders of the Principal District Judge. It is a serious misconduct. It will affect the morale of the staff. If, this type of misconduct is not properly dealt with, then discipline cannot be maintained in the Judicial Department. Even till the initiation of the disciplinary proceedings, the appellant has not joined duty in the Court of District Munsif, Aruppukkottai.



35. However, she was not accused of having committed bribery or forgery of records or misuse or abuse of her position. There was no allegation of causing loss to Govt property or money. There was no previous commission of any misconduct. There was no prior punishment.

36. The appellant is the mother of three daughters and one son. They are grown up. Two of them reached collegiate education and two of them reached school education. Their father is an ordinary coolie. She got appointment only at the age of 38 years. She was removed from service when she was 41 years old. She belongs to the lower strata of the society, namely, schedule caste. She belongs to the lowest category of staff in the Judicial Department, namely, Masalchi.

37. Considering all the above aspects, the extreme punishment of her removal from service shocks our conscience and it is excessive.

38. The matter can be remanded to the Principal District Judge to award appropriate punishment. But, it will take time. She is already without job for several years. So, in this appeal itself, we can pass appropriate orders.

#### FINAL OUTCOME :

39. In view of the foregoings, her punishment of removal from service is modified to stoppage of two increments with cumulative effect. She shall be reinstated into service by issuing posting orders, posting her to a place which the Principal District Judge, Srivilliputhur may deem fit, within 15 days from the date of receipt of a copy of this order. The stoppage of increment will come into effect from the date of her reinstatement. For the period from 17.10.2008 till her reinstatement on the principle of 'no work, no pay', she is not entitled to any pay and allowances.

Sd./- Hon'ble P.Devadass., J., Sd./- Hon'ble N.Kirubakaran, J., Sd./- Hon'ble ACJ.,

Dated : 04.06.2013.

R. No. 7730 dated 31.07.2013

Copy communicated to all Judicial Officers in Tiruchirappalli District for information.

District Court,  
Tiruchirappalli.

Dated: 16 .08.2013

Sd/-P.Velmurugan,  
Principal District Judge,  
Tiruchirappalli  
/True copy/Forwarded/

Chief Administrative Officer.