

(2002) 07 MAD CK 0065
In the Madras High Court
Case No : Writ Petition No. 10902 of 1995

S.A. Baskar

APPELLANT

Vs

The Asst. Security Officer, D.A.R. Enquiry Officer, Railway Protection Force, Southern Railway, Madras Headquarters, Madras, The Chief Security Commissioner, Southern Railway, Madras and The Director General, Railway Protection Force, Indian Railways, Rail Bhavan, New Delhi

RESPONDENT

Date of Decision : 30-07-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 162
Industrial Disputes Act, 1947 — Section 11A
Railway Property (Unlawful Possession) Act, 1966 — Section 3

Citation : (2002) WritLR 773

Hon'ble Judges : A. Kulasekaran, J

Bench : Single Bench

Advocate : Venkatapathy, for the Appellant; Thiyagarajan, for the Respondent

Final Decision : Dismissed

Judgement

A. Kulasekaran, J.—The petitioner prays for issue of a Writ of Certiorarified Mandamus to call for the records of the first respondent viz.,

the proceedings of the Enquiry Officer, ASC.CUM PA to CSC/RPF/MAS dated 23-11-1992 and as upheld by the 2nd respondent in his

reference No. X/P.227/SAB/PGT/CSC/RPF/MMC/MAS-3/24-02-1993 and as finally rejecting the petitioner"s appeal by the 3rd respondent in

his order No.93 SEC.,(E)/DAR-2/25 New Delhi dated 07-10-1994 the impugned order and to quash the same and to direct the third respondent

to reinstate the petitioner in service with all back wages, continuity of service, promotion and all other consequential benefits.

2. Heard both sides. The charges against the petitioners are:-

i) Failed to maintain absolute integrity and devotion to duty while working as IPF/CGL on 01-02-1992 in that though he went to ACK Railway

Station, did not return to CGL post vide Entry Nos. 36, 37 and 38 and altered Entry No.34 to the effect to show that he was present at the RPF

Post/Chengalpet from 16.30 hrs to 18.20 hrs in order to create an alibi that he was not at ACK Railway Yard in the afternoon of 01-02-1992

with a malafide intention.

ii) failed to continue to work at SO Post as instructed by DSC/MAS vide letter No.M/XP.536/IPF dated 04-02-1992 and left SO at 11.30 hrs

on 05-02-1992 without permission on 05-02-1992 onwards.

iii) having been relieved from the post of IPF/CGL and the temporary charge of SO Post with effect from 19-02-1992 on his transfer to PGT in

terms of CSC/MAS/O.O.No.32/92 dated 06-02-1992 and DSC/PGT O.O.No.9/92 dated 12-02-1992 and DSC/MAS relieving letter

No.M/XP.536/IPF dated 19-02-1992 respectively, he failed to report at PGT till date even in spite of issue of subsequent reminder vide

DSC/PGT letter No.J/XP.509/PCF/SAB/IPF/92 Dated 30-03-1992 which was acknowledged by Sri. T.S. Mani, father of Sri S.A. Baskar on

his behalf in the absence of him on 10-04-1992. And thus he violated Rules 146.6 (i) & (iii), 147 (iv) and 147 (vi) of RPF Rules, 1987 and also

contravened Rule 3 (1) (i) & (iii) of Railway Service Conduct Rules, 1956.

3. Pending charges, the petitioner was placed under suspension. An enquiry officer was appointed and the enquiry officer filed his report dated 30-

11-1992 holding that all the charges are proved.

Charge - 1 - He failed to maintain absolute integrity and devotion to duty while working as IPF/CGL on 01-02-1992 in that though he went to

ACK Railway Station, did not return to CGL post, but made false entries in the daily diary of CGL Post vide Entry Nos. 36, 37 and 38 and

altered Entry No.34 to the effect to show that he was present at the RPF Post/Chengalpet from 16.30 hrs to 18.20 hrs in order to create an alibi

that he was not at ACK Railway Yard in the afternoon of 01-02-1992 with a malafide intention.

Charge - 2 - Shri S.A. Baskar, IPF/CGL failed to continue to work at SO Post as instructed by DSC/MAS vide letter No.M/XP.536/IPF dated

04-02-1992 and left SO at 11.30 hrs on 05-02-1992 without permission and

thereby absented unauthorisedly from 11.30 Hrs on 05-02-1992 onwards.

Charge - 3 - having been relieved from the post of IPF/CGL and the temporary charge of SO Post with effect from 19-02-1992 on his transfer to

PGT in terms of CSC/MAS/O.O.No.32/92 dated 06-02-1992 and DSC/PGT O.O.No.9/92 dated 12-02-1992 and DSC/MAS relieving letter

No.M/XP.536/IPF dated 19-02-1992 respectively, he failed to report at PGT till date even in spite of issue of subsequent reminder vide

DSC/PGT letter No.J/XP.509/PCF/SAB/IPF/92 Dated 30-03-1992 which was acknowledged by Sri. T.S. Mani, father of Sri S.A. Baskar on

his behalf in the absence of him on 10-04-1992. The charge is proved.

4. The respondents have issued a second show-cause notice to the petitioner and the petitioner has also given his reply dated 09-01-1993. The

2nd respondent, after consideration of the said reply passed an order of removal from service on 24-02-1993 based on the report of the enquiry

officer. Aggrieved by the order of removal, the petitioner has preferred an appeal on 29-03-1993 to the 3rd respondent which was also dismissed

by order dated 02-10-1994.

5. The case of the petitioner is that on 01-02-1992 he went to Acharapakkam from Chengalpet in the morning to supervise delivery of railway

scrap rails along with one Sekar, ASIPF. After delivery was over, he has come back to Chengalpet post at 16.30 hrs and entries in the diary

support the same. The lorry with the said load was searched by the another officer who found unauthorised rail scraps and brought it to

Chengalpet Post. The petitioner has registered a case in RPF Crime No. 2 of 1992 under Sec. 3 (a) of RP (UP) Act as per the instructions of

Chief Security Commissioner and seized the lorry and the accused. On 02-02-1992, the petitioner arrested the accused, lorry driver and cleaner

and produced them before the Court. Later, they were remanded to judicial custody. On 03-02-1992, the petitioner received a letter from

Divisional Security Commissioner directing him to report before the Chief Security Commissioner/2nd respondent herein on 04-02-1992. On that

day, he was transferred to Salt Cotarus. Accordingly, the petitioner reported for duty at Salt Cotarus, however, he left the office without any

intimation due to depression. ON 06-02-1992, the petitioner was transferred to

Palghat and the order was served on the petitioner's father. On

21-02-1992, the Divisional Security Officer, Palghat sent a letter placing the petitioner under suspension for alleged serious misconduct of

abatement and connivance of an offence against Railway Property on 01-02-1992.

6. Mr. K.V. Venkatapathy, learned Senior counsel appearing for the petitioner advanced arguments that the witnesses enquired before the enquiry

officer namely Duraipandy, Kalaimani, Selvaganapathy and Sekar gave evidence to the effect that they were forced by Dayalan to sign a

statement. The said Dayalan also, in his evidence stated that he has no personal knowledge about the alleged alteration of entry No.34 and also

false entries 36, 37 and 38. According to the petitioner, no witnesses spoken about the alleged alteration of entry No.34 and also false entry Nos.

36 to 38 as such charge No.1 is not at all proved. The learned senior counsel further argued that in respect of charge Nos. 2 and 3, the petitioner

was available on 05-02-1992 at Salt Cotarus, but due to mental depression, he became sick and he was also under treatment for a period of eight

months. During the period of treatment, he was transferred to Palghat, but he could not join duty due to mental depression and continuous

treatment. Further, the transfer order served on his father was not known to him, with the result, he could not join duty at Palghat. The learned

senior counsel further canvassed that the authority who issued charge memo was not competent to issue a charge memo on the petitioner besides

the charges are vague and baseless. The learned senior counsel further submits that the criminal case in C.C. No. 82 of 1992 filed against the

petitioner and six others, in which the petitioner herein was cited as 6th Accused ended in acquittal in so far as the petitioner and 3 others are

concerned by order dated 27-08-1996 by the District Judge, Chengalpet. Further, the findings made by the enquiry officer without any valid

evidence is illegal and improper. At any event, the order of punishment is disproportionate and invalid, hence prayed for quashing the orders of the

respondents 1 to 3.

7. The learned senior counsel appearing for the petitioner relied on a decision of the Gujarat High Court reported in 1982 2 SLR 629 (Bhim Sing

Sardar Sing Vs. District Superintendent of Police and others) wherein in Para-9 it was held thus:-

9. Another division bench of this Court in R.M. Parmar, Pethapur, Dist. Gandhinagar Vs. Gujarat Electricity Board, Baroda, Baroda, Special

Civil Application No.3740 of 1981, decided on December 1, 1981 1 G.L.R. 352: 19 GLT 53 has observed with regard to the imposition of

penalty by the statutory authority created under Sec. 11A of the Industrial Disputes Act that some of the important dimensions which are required

to be kept before the mind while imposing penalty are as follows:-

1. Widespread unemployment
2. No provision for social benefits like unemployment allowance
3. Enlightened approach must be observed in imposing punishment
4. Punishment is not and cannot be the end in itself
5. Punishment must not be in order to seek retribution
6. Purpose of a punishment should be corrective
7. Penalty of dismissal against every guilty employee not expedient even in the interest of administration; it may prove counterproductive.
8. Penalty must be commensurate with the magnitude of the fault; the same penalty cannot be imposed for giving a slap as would be imposed for homicide.
9. Unless the disciplinary authority reaches the conclusion that it would be absolutely unsafe to retain the employee in service, the maximum penalty of dismissal cannot be imposed. Disciplinary authority must ask his inner voice and rational faculty why a lesser penalty cannot be imposed.
10. Imposition of maximum penalty results in total ruination of the delinquent in recourse to costly legal proceedings and payment of back wages if they terminate successfully.
11. Harsh order of removal creates bitterness and arouses a feeling of antagonism and results in agitational approach and conflict.
12. Taking of a petty article by a worker in a moment of weakness does not call for an extreme penalty of dismissal from service when tax evasion and possession of black money by the rich is not regarded as dishonest by and large.

The said Judgment was relied on by the learned Senior counsel to say that when the punishment imposed is disproportionate, the High Court can

interfere and set aside the same.

8. Mr. Thiyyarajan, learned senior counsel appearing for the respondents submitted that though the petitioner has registered a Case in Crime No. 2

of 1992 under Sec. 3 (a) of RP (UP) Act on 01-02-1992, the fact remains that the petitioner went to Acharapakkam to witness delivery of

railway scrap rails along with one Sekar, ASIPF. The Sekar has come back to Chengalpet leaving the petitioner at Acharapakkam. The petitioner

has instructed the said Sekar not to make GD entries about his return and the petitioner himself would make necessary entries on his return from

Acharapakkam. Thereafter, the lorry loaded with railway materials was intercepted by Shanmugaraj, Senior Store Keeper, who in turn handed

over the materials to the petitioner for further action since some of the railway materials, which were not auctioned were found loaded in the lorry

with the active connivance and in the presence of the petitioner herein. Subsequently, the case registered by the petitioner was handed over to one

Dayalan, Inspector, Crime Intelligence Branch for further enquiry as per the order of the Divisional Security Commissioner, Madras. Thereafter,

the petitioner was directed to report to duty at Salt Cotarus and accordingly the petitioner reported to duty at Salt Cotarus, but he left office on the

same day without any intimation or permission. The presence of the petitioner at Chengalpet and also at Madras was quite detrimental to the case

registered in Crime No. 2 of 1992, he was transferred to Palghat and necessary orders were also passed relieving him. But, the petitioner failed to

report duty at Palghat despite reminders issued by the Divisional Security Commissioner. The quarters of the petitioner was also found locked.

Therefore, the transfer order was served on the petitioner's father who was residing in the same area and a copy of the same was also pasted on

the door of the petitioner's quarters. However, the petitioner has attended the disciplinary enquiry. The enquiry officer, after examination of seven

prosecution witnesses held that the charges framed against the petitioner is proved. The disciplinary authority, 2nd respondent herein, based on the

findings of the enquiry officer has imposed the punishment of removal from service with effect from 27-02-1993. The appeal preferred by the

petitioner to the 3rd respondent was rejected on 07-10-1994, but the delay in disposal of the appeal was not intentional but due to administrative

procedures. The learned senior counsel for the respondents canvassed that it is alleged by the petitioner that the witnesses were forced to give a

statement by Dayalan. When the said Dayalan was also cross-examined nothing was elicited from him. According to the learned senior counsel for the respondents, the order of removal was passed by the 2nd respondent in accordance with the Rules and Regulations. It is further argued by the senior counsel that the petitioner was in control of the GD had corrected the time in it from 17.00 hours to 16.20 hours in item No.34 made already by the ASIPF. The petitioner had also caused entry No.36 in the GD as if he had returned to chengalpet at 16.30 hours from Acharapakkam after effecting delivery of scrap owing to lot No.12/623/O/92 along with Sekar. The petitioner has also made an entry No.37 and 38 as if he attended office at 12.15 hours and left by 18.20 hours. The entries made by the petitioner are to create a false alibi to show that as if he was not at Acharapakkam Railway Station in the evening on 01-02-1992 at the time of unauthorised removal of rails. The petitioner has also not chosen to let in evidence to disprove the said charges. The enquiry officer has also found that it was unnecessary to send the alterations of entry No.34 to handwriting experts for their opinion as the statements given by the witness namely Selvaganapathy made it clear that the alteration was made by the petitioner himself. According to the learned senior counsel for the respondents, the enquiry officer, after careful consideration of the witnesses let in before him has rightly come to the conclusion that the charges against the petitioner was proved. Further, the witnesses turned hostile and retracted from their earlier statement recorded by Dayalan, would not make the statements given at the earliest stage of enquiry inadmissible. It is also argued by the learned senior counsel for the respondents that based on the report of the enquiry officer, the 2nd respondent has rightly passed the order of removal from service and the appellate authority has also, after careful consideration of the records rejected the appeal preferred by the petitioner. That the penalty imposed by the respondents are commensurate with the gravity of offence and prayed for dismissal of the writ petition.

9. The learned counsel appearing for the respondents relied on the following decisions in support of his contention:-

i) State of Maharashtra and another Vs. Madhukar Narayan Mardikar, wherein in Para-7 it was held thus:-

7. The High Court, while conceding that it has no jurisdiction to sit in appeal over the decision of a domestic tribunal and is not entitled to

reappraise the evidence, fell into an error in doing just that under the guise of examining the evidence to ascertain if the respondent was prejudiced

on account of the failure of the department to provide him with the notebooks of Desale, Wadekar, Kadam and Sakpal dated November 13,

1965 and the logbook of the jeep of even date.

In this case, the Apex Court of our Country held that High Court cannot sit in appeal over the decision of domestic tribunal and is not entitled to

re-appraise the evidence.

ii) Nelson Motis Vs. Union of India and another, wherein in Para-5 it was held thus:-

5. So far the first point is concerned, namely whether the disciplinary proceedings could have been continued in the face of the acquittal of the

appellant in the criminal case, the plea has no substance whatsoever and does not merit a detailed consideration. The nature and scope of a

criminal case are very different from those of a departmental disciplinary proceeding and an order of acquittal, therefore, cannot conclude the

departmental proceeding. Besides, the Tribunal has pointed out that the acts which led to the initiation of the departmental disciplinary proceeding

were not exactly the same which were the subject matter of the criminal case.

In the above judgment, the Honourable Apex Court held that departmental enquiry can continue despite acquittal of delinquent in a criminal case.

iii) Government of Tamil Nadu and another Vs. A. Rajapandian, wherein in Para8 it was held thus:-

8. We have quoted above three paragraphs from the impugned order of the Administrative Tribunal to show that the Tribunal reappreciated the

evidence recorded before the inquiring authority. The Administrative Tribunal reached different conclusions from the inquiring authority on its own

evaluation of the evidence. The Tribunal fell into patent error and acted wholly beyond its jurisdiction. It is not necessary for us to go into the merits

of appreciation of evidence by the two authorities because we are of the view that the Administrative Tribunal had no jurisdiction to sit as an

appellate authority over the findings of the inquiring authority.

In this case, the Hon"ble Supreme Court has held that Tribunal cannot sit as a

Court of appeal over a decision based on the evidence of enquiring authority in a disciplinary proceedings.

iv) U.P. State Road Transport Corporation Vs. Mohan Lal Gupta and Others, wherein in Para-8 it was held thus:-

8. On the wake of the situation as above, we are of the opinion that the question of award of any minor punishment in the facts of the matter under

consideration does not and cannot arise and neither the Labour Court could alter the punishment of termination of service having regard to its

assessment of facts and the contentions as regards the validity of the inquiry proceedings. The employee has been found to be guilty of

misappropriation and in such an event if the appellant Corporation loses its confidence vis-...-vis the employee it will be neither proper nor fair on

the part of the Court to substitute the finding and confidence of the employer with that of its own by allowing reinstatement. The misconduct stands

proved and in such a situation by reason of the gravity of the offence the Labour Court cannot exercise its discretion and alter the punishment.

In this case, an employee has been found to be guilty of misappropriation and in such an event the Management loses its confidence vis-a-viz the

employee, held neither proper nor fair on the Court to substitute its findings and confidence of the employer with that of its own in allowing

reinstatement.

(vi) 2001 4 Sup 396 (Syed Rahimuddin Vs. Director General of CSIR & Others) wherein in Para-5 it was held thus:-

5. The further grievance that the findings of the enquiring officer are findings on no evidence is belied by the very report of the enquiring officer.

The enquiring officer has dealt with the articles of charge chronologically and the relevant materials on the basis of which the ultimate conclusion is

arrived at. It is well settled that a conclusion or a finding of fact arrived at in a disciplinary enquiry can be interfered with by the court only when

there are no materials for the said conclusion, or that on the materials, the conclusion cannot be that of a reasonable man. Having examined the

report of the enquiring officer, we are unable to accept the contention of the learned counsel for the appellant that the findings of the enquiring

officer cannot be held to be findings based on no evidence.

In the above case, the Hon"ble Supreme Court held that conclusion or finding of

fact arrived at in a disciplinary enquiry can be interfered by High Court only when there was no material for such conclusion, or on the material the conclusion would not be that of a reasonable man.

10. On 01-02-1992, the petitioner while he was working as IPF/CGL has left Chengalpet RPF post at 11.15 hours for Acharapakkam Railway

Station and made entries in his diary maintained in Chengalpet RPF Post. He proceeded to Acharapakkam along with one Sekar, ASIPF/CGL for

witnessing the delivery of railway scrap materials and left the diary with one Selvaganapathy, ASIPF/CGL. The petitioner telephoned to

Duraipandi, Const. 75 at 18.00 hours on the same day from his residence in Chengalpet to direct Selvaganapathy to meet him at his residence with

the Daily Diary. Accordingly, Duraipandi conveyed the same to Selvaganapathy, while he was on rounds from 17.00 hours. Thereafter,

Selvaganapathy proceeded to the residence of the petitioner and handed over the diary. The petitioner corrected the time of 17.00 hours written

by Selvaganapathy as 16.20 hours in entry No.34. The petitioner further made the entry 36 as if he has come back to Chengalpet RPF Post at

16.30 hours from Acharapakkam Railway Station after effecting delivery of the said scrap rails. The petitioner further corrected diary entries 37

and 38 as 17.15 hours and 18.20 hours respectively stating that he has attended to office work and left the office by 18.20 hours. According to

the respondents, the petitioner did not actually return to Chengalpet RPF Post at 16.30 hours. The said false entry and corrections were made to

create an alibi to show that he was not present at Acharapakkam Railway Station in the afternoon of 01-02-1992 at the time of unauthorised

removal of 76 numbers of cut pieces of rails by lorry No. TSE 7684 from there.

11. Duraipandi in his evidence deposed before the enquiry officer that Dayalan, by force and coercion obtained his signature in a statement written

by him and he has not even read it. He further deposed that he was on duty from 13.00 hours to 21.30 hours on 01-02-1992 as Sentry and

received a telephone call from the petitioner enquiring about Selvaganapathy. Later, Selvaganapathy talked to the petitioner over phone and left the

office. In his statement recorded under Sec. 162 of Cr.P.C., it was stated by him that the petitioner has not come to RPF Post till he dismounted

duty. Kalaimani, Head Constable, deposed that he has signed a statement

prepared by Dayalan without knowing its content as such they are incorrect. In his cross-examination, he has admitted that Jacob John was present at the time of recording his statement by Dayalan. Selvaganapathy deposed that he left CGL Post on 01-02-1992 at 16.00 hours and come back to the post only at 18.00 hours. On his return from rounds, he has seen the petitioner in the post. At 18.00 hours, the petitioner has handed over charge of diary to him and left the office. It was further stated by Selvaganapathy that at 19.00 hours on the same day, Shanmugaraj, SSO came to office and reported that he has caught one lorry with rails and brought the driver and cleaner of the lorry. The said information was passed on to the petitioner at his residence. Immediately, the petitioner came to the Post and registered a case in Crime No.2 of 1992 and proceeded further for investigation. The said Selvaganapathy further deposed that Dayalan was found in a drunken stage and forced him to sign a statement written by him. He has also denied the contents of the 162 Statement as false. Sekar deposed before the enquiry officer that he accompanied the petitioner at about 11.00 hours to Acharapakkam to witness delivery of scrap rails and both of them reached Acharapakkam at 12.00 hours. The loading was completed by 13.45 hours on that day. The petitioner has signed the gate pass for the lorry MSB 1159 and the lorry left at 14.30 hours. He has also admitted in his evidence that he has not made any diary entries since the petitioner told him that he would make necessary entry after his return to Head Quarters. He further deposed that he reached Chengalpet Post at 16.15 hours and proceeded to Kancheepuram for other enquiry and came back to Chengalpet at 20.00 hours. He has further stated before the enquiry officer that he has signed the statement prepared by Dayalan without knowing its contents since Dayalan has threatened to arrest him. Jacob John deposed that he was physically present when Dayalan was recording statement from the said witnesses. He further deposed that Dayalan has read the contents of the statement to the witnesses before obtaining their signatures. Dayalan, in his evidence has stated that he has examined all the witnesses and recorded the statement voluntarily given by them in the presence of John Jacob.

12. It is evident that the above said witnesses were examined by the department in respect of Charge No.1 and deposed that Dayalan has

threatened them and forcefully obtained their signature in the statement. Admittedly, the statements were recorded from the witnesses in the month of February 1992 and they were examined before the enquiry officer during October 1992. In the meantime, admittedly, the said witnesses have not given any complaint against Dayalan.

13. The learned senior counsel appearing for the petitioner canvassed that the witnesses have categorically deposed that the investigating officer has forcefully obtained their signatures in the statement as such the charges should have been held unproved by the enquiry officer, but he failed to do so. On the other hand, the learned Senior counsel appearing for the respondents submitted that at the earliest point of time, the statements were recorded by Dayalan in the presence of John Jacob. Admittedly, the witnesses have not chosen to give any complaint against Dayalan for a period of 8 months. Hence, the retraction of evidence was rightly brushed aside by the enquiry officer and relied on the statement recorded at the earliest point of time and rightly concluded that the charge was proved.

14. In respect of charge No.2 is concerned, the witness P.K. Gopi SIPF/MS was examined before the enquiry officer and deposed that on 05-02-1992, the petitioner has reported for duty at SO post, Salt Cotarus at 09.05 hours and made GD entry No. 16 and the GD was handed over to him. The petitioner has left at 11.30 hours from Salt Cotarus without any intimation and also without making any entry in GD. He further deposed that he has reported the same to DSC/MS. Ponraj has deposed before the enquiry officer on 06-02-1992 that he was handed over a cover addressed to the petitioner. He went to SO Post, but the petitioner was not available and the witness Gopi informed him that the petitioner left on 05-07-1992 and did not come back. Again on 22-02-1992, DSC/MAS has handed over the Suspension order to Ponraj to serve it on the petitioner. He went to Chengalpet along with Kalaimani to the quarters of the petitioner, which was found locked. Therefore, he pasted the copy of the suspension order on the door and also served a copy of the order to the petitioner's father, who is residing in the same area.

15. The oral evidence of the said witness prove beyond reasonable doubt that the petitioner absented himself unauthorisedly from 05-02-1992 onwards. The defence of the petitioner is that he went to make a Phone call at

11.30 a.m., on 05-02-1992 but he felt mentally upset and did not know what has happened afterwards. It is further alleged by the petitioner that he has undergone treatment for about 8 months for mental depression due to harassment of the officers. Admittedly, he has not produced any medical certificate from the Railway Doctors or from Private Doctors. Hence, the charge No.2 that without permission or leave the petitioner has absented unauthorisedly from 11.30 hours on 05-02-1992 onwards was proved.

16. In so far as the charge No.3 is concerned, the petitioner was relieved from Salt Cotarus on transfer to Palghat in terms of order dated 06-02-1992. But, he failed to report duty at Palghat. The petitioner has also conceded that he did not join duty at Palghat and he is prepared to join duty after revocation of his suspension after recouping himself. Hence, the enquiry officer has rightly found that the said charge was also proved.

17. The disciplinary authority/2nd respondent herein, based on the report of the enquiry officer has arrived at a conclusion that the petitioner, to make believe that he was not at Acharapakkam Yard on the afternoon of 01-02-1992 has made false entries in the diary and also corrected the original entries and held proved. Similarly, based on the oral and documentary evidence let in before the enquiry officer, he came to the conclusion that the other two charges relating to unauthorised absence was also held proved. The appellate authority also has independently considered the records placed before it and rightly rejected the appeal preferred by the petitioner. The petitioner was transferred to Palghat, hence DSC/PGT was the competent authority to issue charge memo, however the punishment was imposed by the competent authority. The judgment relied on by the learned Senior counsel for the petitioner is not applicable to the facts and circumstances of the instant case.

18. The material records placed before me establish that the charges against the petitioner were proved. The petitioner, who was in a disciplinary force has gone to the extent of altering and making false entries in the diary and also unauthorisedly absented for a period of eight months deserves the punishment of removal from service. The judgment relied on by the senior counsel for the respondents are applicable to the case on hand.

Hence, no interference with the impugned order is warranted.

In the result, the writ petition is dismissed. No costs.