

(2009) 12 MAD CK 0178

Madras High Court

Case No: Writ Petition No. 7941 of 2009

S. Seetharaman

APPELLANT

Vs

The Registrar General, High
Court and The Govt. of Tamil
Nadu

RESPONDENT

Date of Decision: Dec. 18, 2009

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 12 Rule 6(1)
- Constitution of India, 1950 - Article 226

Citation: (2010) 1 MLJ 977

Hon'ble Judges: M. Venugopal, J; Elipe Dharma Rao, J

Bench: Division Bench

Advocate: A.R.L. Sundaresan, S.C. for AL. Ganthimathi, for the Appellant; A.L. Somayaji, S.C. for V. Ayyathurai, for R1 and Malarvizhi Udayakumar, S.G.P. for R2, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

M. Venugopal, J.

The petitioner has filed this writ petition praying for issuance of a writ of certiorari and mandamus, calling for the records of the second respondent pertaining to the removal of the petitioner from service, issued under G.O.(D). No. 791 Home (Courts I) Department, dated 04.07.2008 and to quash the same and to further direct the respondents to reinstate him in civil service as Civil Judge, Junior Division with all attendant benefits, seniority, promotion, increments etc.

2. The second respondent, by its G.O.(D).No.791 Home (Courts I) Department dated 04.07.2008, has passed orders, inter alia, stating that it has accepted the recommendation for removing the petitioner from service and ordered the

imposition of penalty of Removal from Service of the petitioner.

3. The petitioner has joined the judicial service as a Civil Judge, Junior Division through the Tamil Nadu Public Service Commission in the year 1998 and before that, he practised as an Advocate for about 14 years. Before his removal from service, he has been serving as Additional District Munsif, Pudukkottai. While he was serving as Additional District Munsif, Pudukkottai, he was issued with a Charge Memo bearing C.No.122/2001/VC in Roc.469/2001/VC, dated 17.05.2006 by the Registrar (Vigilance), High Court, Madras stating that he has called one G. Panneerselvam, Pudukkottai (complainant) to his room at Central Lodge, Pudukkottai where he has been staying and demanded a sum of Rs. 25,000/- as bribe for granting decree favourably in O.S. No. 501 of 1995 and O.S. No. 502 of 1995 filed by his wife and on refusal to comply with the said demand, he has partly decreed the suit in O.S. No. 501 of 1995 and completely dismissed the suit in O.S. No. 502 of 1995, even though in both the suits, the parties are the same and the issues involved are similar and thus indulged in corrupt practices and conduct unbecoming of a Judicial Officer and thereby rendered himself to be punished under the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1973.

4. The petitioner has submitted his explanation to the said charge memo and an Inquiry was initiated on the basis of the complaint of G. Panneerselvam, husband of the plaintiff in two suits in O.S. Nos. 501 and 502 of 1995 on the file of Additional District Munsif Court, Pudukkottai. The Principal District Judge, Thanjavur was appointed as an Inquiry Officer to conduct the departmental inquiry against the petitioner and he was directed to submit his report. The Inquiry Officer viz., the Principal District Judge, Thanjavur has conducted the departmental inquiry against the petitioner.

5. The petitioner has submitted his explanation to the charge and an Inquiry has been conducted by the Inquiry Officer viz., the Principal District Judge, Thanjavur who has given a finding that the charges against the petitioner have been conclusively proved by the prosecution by unimpeachable evidence of P.W.1 to P.W.5 and the unassailable documentary evidence of Ex.P.1 to P.19 adduced on the side of the complainant. The findings of the Inquiry Officer viz., the Principal District Judge, Thanjavur dated 21.06.2007 have been considered by the Honourable Administrative Committee of this Court and by enclosing a copy of the findings of the Inquiry Officer, the petitioner was directed to submit his further representation, if any, in the above matter within 15 days from the date of High Court's Official Memorandum C. No. 122/2001/VC in Roc. No. 469/2001/VC. The petitioner has submitted his further representation dated 20.12.2007. The Honourable Administrative Committee by considering the findings of the Inquiry Officer and the further representation submitted by the petitioner, in the meeting held on 23.06.2008, has resolved to impose the punishment of removal from service and further the matter has been placed before the Honourable Full Court in the meeting

held on 31.03.2008 and the Full Court has resolved to approve the minutes of the Honourable Administrative Committee and thereafter, the Government has issued the impugned order of removal from service which is assailed in this writ petition by the petitioner before this Court.

6. The learned senior Counsel for the petitioner contends that the order of the second respondent dated 04.07.2008 imposing the penalty of removal from service on the petitioner is an arbitrary, illegal and unsustainable one in the eye of law and further that the enquiry proceedings are vitiated for violation of the principles of natural justice has no opportunity of hearing has been given to the petitioner before taking the final decision by the Honourable Administrative Committee are by the Full Court or by the Government and even the first respondent has not given any opportunity of hearing to the petitioner and moreover, the order of the second respondent also does not show any consideration of the explanation submitted by the petitioner and except for extracting the charge, the explanation offered, the findings of the Inquiry Officer and the further representation made by the petitioner in paras 1 to 3 of the order, the same does not have any consideration of the explanation and in para 4 of the order it is mentioned that the findings of the Inquiry Officer and further representation submitted by the petitioner have been considered by the Honourable Administrative Committee in its meeting held on 26.3.2008 and it has been resolved to impose the penalty of removal from service and thereafter, the Full Court in its meeting held on 31.3.2008, had resolved to approve the minutes of the meeting of the Honourable Administrative Committee and that the first respondent has requested His Excellency, the Governor of Tamilnadu to impose the penalty of petitioner's removal from service. Likewise, in para 5 of the order, except stating that there has been a careful and independent examination of the case, nothing else is reflected in the order and therefore, the entire proceedings are against the principles of natural justice.

7. Continuing further, the learned Counsel for the petitioner submits that the findings of the Inquiry Officer are based on surmises and conjectures and the complaint of the husband of the plaintiff should have been rejected at the threshold as it has been vague, bereft of material particulars and given after a long, unexplained delay of two months after the judgments have been rendered in the said cases and as such, the same is not worth of any credence and if such complaints lodged by unscrupulous litigants who have lost cases are entertained, no Judicial Officer will be safe and will be in a position to dispose of cases to his conscience and he will be robbed of his independence and as a matter of fact, the Subordinate Judicial Officers depend upon the High Court for protection against such unscrupulous elements and if they are not protected from such frivolous allegations by the Hon'ble High Court, then, it will be unsafe for them and admittedly, the properties involved in O.S.Nos.501 and 502 of 1995 on the file of learned Additional District Munsif, Pudukkottai are different and the oral evidence and the documentary evidence marked and adduced in the cases are also different

and it cannot be said that the judgment in both the suits ought to be the same.

8. Expatiating his submissions, the learned senior Counsel for the petitioner submits that the Inquiry Officer has misconstrued the defence of the petitioner to the effect that he has admitted the case of the plaintiff in O.S. No. 501 of 1995 and that the Inquiry Officer also has lost sight of the fact that it is not necessary that admission should be made only in the written statement or additional written statement and admission can be at any stage of the proceedings and in the present case, the defendant, as D.W.1 in O.S. No. 501 of 1995, has categorically stated that he is not claiming any right or possession in the suit schedule property and he has no objection to the suit being decreed in favour of the plaintiff as prayed for and in the other suit in O.S. No. 502 of 1995, he has asserted his right to the property in issue and therefore, the said suit has to be necessarily considered on the basis of documentary and oral evidence on either side and the same cannot be treated on par with the suit in O.S. No. 501 of 1995 and even if the reasonings assigned by the petitioner in the judgments delivered in O.S. No. 501 and 502 of 1995 are incorrect, at best, it will be only an "Error of Judgment" and the same cannot be construed as a case of probablising the complaint of charge for illegal gratification resulting in punishment of removal from service and also that the Inquiry Officer's reliance on the evidence of P.W.3 to P.W.5, as if they support the case of P.W.1 and P.W.2 in their endeavour to prove the charge, is certainly an erroneous and unwanted one and indeed P.W.3 and P.W.4 have deposed that the petitioner has been staying at Central Lodge, Pudukkottai and the observation of the Inquiry Officer that the judgment has been delivered on a particular date tallies with the date mentioned by the complainant and the date mentioned by P.W.5 as if it points out to the guilt of the petitioner is perverse and apart from the above, it is the stand of the petitioner that he has decided both the suits on merits to the best of his judicial conscience and judgment and therefore, the allegations made against him are motivated, false and frivolous one and in short, the findings of the Inquiry Officer and the subsequent order of the second respondent in removing the petitioner from service are against all canons of law and therefore, prays for allowing the writ petition in furtherance of substantial cause of justice.

9. In the counter filed by the first respondent, it is mentioned that the petitioner was served with the charge proceedings in High Court proceedings in C. No. 122/2001/VC in ROC. No. 469/2001/VC dated 17.05.2006 and he submitted his written statement of defence dated 05.09.2006 and later, the Administrative Committee of this Court has appointed the Principal District Judge, Pudukkottai as Inquiry Officer to conduct departmental enquiry and that the Inquiry Officer has conducted the departmental enquiry against the petitioner and submitted his findings on 21.06.2007 holding that the charge against the petitioner has been proved and the findings of the Inquiry Officer has been placed before the Administrative Committee of this Court and a copy of the findings was forwarded to the petitioner, who has been required to submit his further representation, if any,

and accordingly, the petitioner has submitted his further representation and that the Administrative Committee of this Court has considered the findings of the Inquiry Officer and the further representation made by the petitioner and in the meeting held on 26.03.2008 it has resolved to accept the report of the Inquiry Officer and to impose the punishment of removal from service and that the matter has been placed before the Full Court in the meeting held on 31.3.2008 and the Full Court has resolved to approve the minutes of the Administrative Committee and pursuant to the said resolution, the impugned order has been issued against which the present writ petition has been filed by the writ petitioner and the decision taken by the Full Court as mentioned in the resolution accepting the findings of the Inquiry Officer wherein the charge has been held to be proved and a a matter of fact, a full and complete opportunity has been given to the petitioner and as such, the allegation of violation of principles of natural justice etc. are not tenable and for the charge held proved, the punishment of removal from service is proper and not disproportionate and therefore, prays for dismissal of the writ petition.

10. The Inquiry Officer/Principal District Judge, Thanjavur has formulated the following points for determination in the departmental enquiry conducted against the petitioner:

- 1) Whether the Delinquent Judicial Officer had demanded a sum of Rs. 25000/- as bribe from PW1 for granting favourable judgments in O.S. No. 501 & O.S. No. 502/1995 on the file of Additional District Munsif, Pudukkottai as alleged by the prosecution?
- 2) Whether the Delinquent Judicial Officer had partly decreed the suit in O.S. No. 501/1995 and dismissed the suit in O.S. No. 502/1995 on the file of the Additional District Munsif, Pudukkottai even though the issue involved in both the suits are similar in nature, on account of the refusal of PW1 to pay the bribe amount as demanded by the Delinquent Judicial Officer as alleged?
- 3) Whether the Delinquent Judicial Officer had been actuated by corrupt motive in delivering a judgment in favour of the defendant in O.S. No. 502/1995 as alleged by PW1?

11. The Inquiry Officer/Principal District Judge, Thanjavur, in his findings dated 21.06.2007, while answering Point Nos. 1 to 3, has, among other things, observed the following:

The Learned Presenting Officer brought to my knowledge that the Delinquent Judicial Officer has assigned different reasons to negative the claim of the plaintiff in O.S. No. 502/1995 in view of PW1's refusal to pay the bribe amount demanded by him. He brought to my notice the discussion of the Delinquent Judicial Officer with regard to issue No. 2 in O.S. No. 502/1995 wherein the Delinquent Judicial Officer has given a finding that even though the suit property was assigned to Cyclone Refugees, the claim made by the defendant that the suit property was purchased by

him from Cyclone refugees has not been disproved by the plaintiff. According to the plaintiff, the suit property belongs to one Mr.Kandaiya. The plaintiff Mrs.Parvathiammal (PW2) had alleged that she is the power agent of Kandaiya and in that capacity, the suit was laid for declaration of title in favour of Kandaiya and for recovery of possession and other reliefs. The judgments rendered by the Delinquent Judicial Officer in O.S. No. 501/1995 and O.S. No. 502/1995 are marked as Ex.P.12 and Ex.P17 respectively. It is evident from the judgment in O.S. No. 502/1995 that the Delinquent Judicial Officer has applied different yardsticks to negative the claim of the plaintiff and to endorse the defence raised by the defendant. He has held that in Pudukkottai District, power deed is being obtained from the Sri Lankan Refugees who have been assigned properties as properties cannot be transferred in law. He further held that the plaintiff/PW2 could have obtained the suit property in that way under Ex.A2 power of Attorney. On the other hand, he has held that the defendant has orally purchased the suit property from the very same Kandasamy for whom the suit has been laid by the plaintiff as his power agent. It is pertinent to note that the written statement filed by the defendant is bereft of any detail with regard to date of oral sale, alleged vendor and the sale consideration. Acceptance of the oral evidence of the defendant without proper plea would show that the Delinquent Judicial Officer has favoured the defendant unduly and has applied different yardsticks with regard to the sale of properties by Sri Lankan Refugees. As such the reasoning given by the Delinquent Judicial Officer to give a different finding would amply demonstrate that the Delinquent Judicial Officer had acted in a biased manner actuated by malice and corrupt practices to disallow the claim of the plaintiff in respect of the suit in O.S. No. 502/1995 as PW1 had failed to pay the bribe as demanded by him. The different yardsticks applied by the Delinquent Judicial Officer with regard to some set of facts while deciding the similar issues in the two suits which were simultaneously tried between the same parties would reveal that the Delinquent Judicial Officer was biased against PW1 due to PW1's refusal to pay the bribe demanded by him. Evidence of PW1 is unimpeachable. Hence, the conduct of the Delinquent Judicial Officer and different yardsticks applied by him to decide the two suits in O.S. No. 501/1995 and 502/1995 only probabilise the version of PW1 that the Delinquent Judicial Officer has dismissed the suit in O.S. No. 502/1995 actuated by corrupt motive upon PW1's refusal to pay the bribe amount of Rs. 25,000/- demanded by Delinquent Judicial Officer prior to the pronouncement of judgments in both the suits.

The Hon"ble Supreme Court has held in Union of India and others Vs. A.N. Saxena, page 124 and Union of India and Others Vs. K.K. Dhawan, Page 56 that the disciplinary action has to be initiated in respect of a judicial or a quasi-judicial action under the following circumstances:

- 1) Where the Judicial Officer has conducted in a manner as would effect on his reputation or integrity or good faith or devotion to duty;

- 2) That there is *prima facie* material to show recklessness or misconduct in the discharge of his duty.
- 3) That if he has acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;
- 4) That if he had acted in order to unduly favour a party; and
- 5) That if he had been actuated by corrupt motive.

In this case, it has been proved by the oral evidence of PW1 coupled with the different reasons given by the Delinquent Judicial Officer in his Judgment cited above that he has acted with a malafide intention to favour the defendant unduly, actuated by corrupt motive.

The law is well settled that strict rule of Evidence Act is not applicable to the departmental proceedings as held by the Hon'ble Supreme Court in a decision reported in AIR 1997 Sc 1512 - [Maharashtra State Board of Secondary and Higher Secondary Education Vs. K.S. Gandhi and Others](#), page 716.

So also the doctrine of proof beyond reasonable doubt has no application to a departmental proceedings is well settled and to that effect the prosecution relied on a judgment reported in [High Court of Judicature at Bombay through its Registrar Vs. Udaysingh Nimbalkar and Others](#), page 2286 High Court of Judicature at Bombay v. Udayasingh.

In this case, admittedly PW1 has not spoken to the date of demand of the alleged bribe by the Delinquent Judicial Officer. But he has categorically stated that it was prior to the date of pronouncement of judgments. Therefore, he has stated that before 28.03.2001, he met the Delinquent Judicial Officer in Central Lodge at Pudukkottai. PW1's evidence coupled with the malafide intention on the part of Delinquent Judicial Office which is manifest from his judgments where he had applied different yardsticks to the similar set of facts amply corroborated the evidence of PW1 with regard to demand of bribe by the Delinquent Judicial Officer prior to the pronouncement of judgment in the said suits on 30.03.2001. The non-mentioning of date of demand and delay in preferring the complaint will not in any way weaken the case of the prosecution as in a case of this nature normally the parties will be reluctant to prefer a complaint immediately as Judges are held in high esteem in society for dispensing the divine duty of adjudication delegated to them. In the light of the above discussions and reasons, I hold that the charges framed against the Delinquent Judicial Officer is conclusively proved by the prosecution by unimpeachable evidence of PW1 to PW5 and the unassailable documentary evidence of Ex.P1 to Ex.P19 adduced on the side of the complainant and all the points are answered accordingly.

12. We are aware that the Court can interfere with the conduct of Domestic Enquiry only in cases of (1) no evidence (2) procedural irregularity (3) malafide. As a matter

of fact, the forensic ability of the Enquiry Officer in assessing probative value of evidence adduced during the enquiry and to show if they have any bearing with the charges levelled against the charged Officer is sine qua non of the purpose of holding an enquiry. At this juncture, we feel it apt to mention that as against the order of removal from service passed against the petitioner, unlike any other departments, there is no appeal remedy available to him and the only course open for him is to file a writ petition under Article 226 of the Constitution of India. In view of the above situation, we will be failing in our duty, if we do not assess the evidence and other aspects of the case in entirety, so as to meet the ends of justice. In these circumstances, we have to assess the entire factual gamut of the case.

13. In Ex.P.1-complaint dated 23.05.2001 addressed to the Special Officer (Vigilance Cell), High Court, Chennai, P.W.1-Panneer Selvam of Tirukokarnam has, inter alia, stated that since he has come from Srilanka as a refugee and because of the fact that he is not fully acquainted with any one in the local area, finally he has filed two suits O.S. No. 501 and 502 of 1995 and before the pronouncement of judgments in O.S. No. 501 and 502 of 1995 the Judge Seetharaman has contacted him through a person with whom he has not been acquainted with for meeting the Judge at his room in Central Lodge at 10.00 p.m. During night and initially he has been hesitant and surprised and inspite of the same, he has gone to the place at the specified time and the Judge Seetharaman alone has been there and he demanded a sum of Rs. 25,000/- from him and that he informed the Judge that the case is in his favour and if really the Judge has studied then he can deliver a fair judgment and that he informed the Judge, he will not pay any amount but for that the Judge informed him that he can do whatever he likes and that he has immediately come out of his room and later he has deferred the judgment and finally on 30.03.2001 he has delivered a favourable judgment in O.S. No. 501 of 1995 and dismissed the suit O.S. No. 502 of 1995 and even though two properties are like properties, for one property a favourable judgment and in respect of another property an unfavourable judgment has been delivered and inspite of his friends compelling him to complaint the matter to the Vigilance against the Judge Seetharaman, he has not done so and therefore, as requested the Special Officer to enquire into the matter and to take necessary action against Mr.Seetharaman, Additional District Munsif, Pudukkottai.

14. The complainant Ponner Selvam (P.W.1) in his statement before the Vigilance Cell, High Court, Chennai, has inter alia stated that before the deliverance of Judgments in both suits, Mr.Seetharaman, Judge through an unacquainted person has asked him to come and meet at the Judge's room in Central Lodge, Pudukkottai after 10.00 p.m., during night where he has been staying and on hearing the same though he has been surprised and in a state of hesitation when he has gone to the Central Lodge at Pudukkottai where the Judge has been staying at the specified time and at that time, the Judge alone was there and the Judge Seetharaman has demanded a sum of Rs. 25,000/- from him for delivering Judgments in favour of his wife in the suits viz., O.S. No. 501 of 1995 and 502 of 1995 filed by her and to this, he

has replied to the Judge stating that this case is in his favour and if really, the Judge is a learned individual he can deliver fair Judgments and further ,that he will not tender any amount and for his reply, the Judge has informed that " he is a Judge and can do whatever he likes and that he immediately is come out of his room and Judge has deferred the Judgment and finally on 30.3.2001, he has delivered the favourable Judgment in O.S. No. 501 of 1995 and unfavourable Judgment in O.S. No. 502 of 1995 and for lodging a complaint, the reason for the delay is due to that he has come to know belatedly through his friends that there is a Vigilance Cell for Judges and also that he has informed his wife that the Judge Mr.Seetharaman has demanded money from him.

15. The wife of the complainant Mrs. Parvathy(P.W.2) in her statement before the Special Officer, Vigilance Cell, High Court, Chennai has stated that her husband is running the medical shop business and like them one Kandaiah, s/o Muniyandi and Kandan, s/o Sadaiyan are also refugees from Srilanka to India and they resided near their place and the Government of India have given them money to each of them to purchase three cents of land at Natham Pannai Village and also loan has been granted to construct a house and both of them have constructed a tiled house side by side and since both of them have no income their two families have decided to go to the tea plantation at Nilgiris for doing job there, they have come to her husband in the year 1991 and they asked her husband to give money to them by keeping their houses and to take the money there of and when her husband has informed this to her and she has agreed for the same and in the year 1991, she has given money to them and got the power deed executed in her favour and later the house has been let out to Subiraj and since he is not paying the rent properly, she has filed two cases viz., O.S. No. 501 of 1995 and O.S. No. 502 of 1995 against him and that her husband has been looking after the legal proceedings and her husband has informed her that the trial Judge who has conducted the cases in order to deliver favourable Judgment in their two cases has demanded a sum of Rs. 25,000/- one day prior to the pronouncement of the Judgment and further her husband has informed her that he has refused to pay the money demanded by the Judge and out of two cases, one case has ended in their favour and other case has gone against them and her mind has become sad because of the fact that proper Judgment has not been rendered to them.

16. . The Office Assistant(P.W.3) in his statement before the Special Officer, Vigilance Cell, High Court, Madras has stated that presently he is serving as Office Assistant in the Additional District Munsif Court, Pudukkottai and per that for three months, he has served at Pudukkottai ,Fast Track Court and before that he worked in Arantangi Munsif Court for ten months and before serving at Arantangi for two years, he served as Office Assistant in the Additional District Munsif Court, Pudukkottai where Mr.Seetharaman served as an Additional District Munsif and at first he has stayed in the chamber of the Court and then at the instance of Principal District Munsif Sam Andrews, who castigated the Munsif, the Additional District Munsif, Seetharaman

has taken a room in the Central Lodge and was staying there and in the lodge his room was in the upstairs portion and Officer alone has been staying there and till he was transferred to Paramakudi Court, he stayed at Central Lodge and further daily at 3.00p.m., he used to go to the room of the Judge in the lodge for the purpose of cleaning and keep the articles properly and when he used to go to the room of the Judge at Central Lodge, at that time, the key of the room will be handed over by the Officer to him and after finishing his work in the room, he will be handed over the key of the room to the Judge and another Office Assistant Mariappan was also doing the work for the Judge and he will not stay during night time and that the Officer has informed him and Mariappan that they need not come to the room during night time.

17. The Office Assistant, Mariappan (P.W.4) in his statement before the Special Officer, Vigilance Cell, High Court, Madras has stated that presently he has been serving as an Office Assistant at the Sub Court, Pudukottai and before that for eight months, he served in Pudukottai Principal District Munsif Court and before that from December 1999 , he served at the Additional District Munsif Court as Office Assistant and at that time, Mr. Seetharaman was the Additional District Munsif at the Additional District Munsif Court, Pudukottai and he is an unmarried person and at first the Judge has been staying in the Court chamber, later in the room of the upstairs of Central Lodge, he has been staying alone and mostly, the Judge will not ask him to do the works in the room since he is an handicapped person and another Office Assistant Palanivel will go to the room of the Central Lodge and returned after cleaning and one day, he has gone to the room along with Office Assistant Palanivel to clean the cobweb and during lunch time, he used to purchase the meals for the Judge from the opposite hotel and the Judge will not direct both of them to stay in the lodge and to do the night duty and they will also not go for the night duty and since his right hand is disabled, he used to sign in his left hand.

18. Thiru Abdul Hameed, (Junior Assistant-cum-Court Officer) (P.W.5) of the Additional District Munsif Court, Pudukottai in his statement before the Special Officer, Vigilance Cell, High Court, Madras has stated that he has been serving as Bench Clerk in the Additional District Munsif Court, Pudukottai from 28.4.1998 and that Thiru Seetharaman served as Additional District Munsif in their Court from 1.3.1998 to 30.4.2001 and during that period, he has delivered Judgment in O.S. No. 501 of 1995 and O.S. No. 502 of 1995 on 30.3.2001 and that he is handing over the xerox copy of the amended plaint, defendant's written statement, additional written statement, copy of Judgment delivered by the Judge and notes paper in the two cases and the orders passed thereon.

19. The Special Officer, Vigilance cell, High Court, Madras, on consideration of oral and documentary evidence has come to the prima facie conclusion that the allegations levelled against the writ petitioner/Additional District Munsif, Pudukottai have been substantiated.

20. The Principal District Judge, Thanjavur has been appointed as an Inquiry Officer to conduct departmental enquiry against the writ petitioner, has conducted the enquiry and submitted his finding dated 21.6.2007 to the High Court, Madras.

21. Before the Inquiry Officer, the complainant has been examined as P.W.1 who has deposed that he has given the complaint Ex P1 and his statement given before the Special Officer, Vigilance Cell, High Court, Madras is Ex P2 and at that time, the delinquent was the Additional District Munsif, Pudukottai before whom two cases viz., O.S. No. 501 of 1995 and O.S. No. 502 of 1995 have been pending which were filed by his wife against one Subraj and the Judgment has been pronounced on 30.1.2001 and one week prior to the pronouncement of the Judgment and an unacquainted person had come and met him stating that he has been sent by the Judge and the said person has come and met him near the Pudukottai District Court and that the said person has informed him that the Judge Seetharaman has asked him to come and meet him at the Central Lodge before 10.00p.m., in the night and after two days, since he is not keeping good health a known person has taken him in a TVS 50 and they had been to the Central Lodge and that he alone has gone to the room , after asking the person who accompanied him to remain near the door steps and in the room the Judge alone was there and that the Judge has demanded Rs. 25,000/- from him for delivering favourable Judgment in two cases viz., O.S. No. 501 of 1995 and 502 of 1995 filed by his wife and further to this informed that he has adequate evidence for his case and therefore, the Judgment will have to be delivered in his favour and to this, the Judge has replied that he can deliver Judgment in any manner as he likes and he can also deliver different Judgment and that he has not paid money demanded by the Judge and that the Judge has informed him that he will deliver Judgments against his wife since the money has not been paid and that he has come out of his room and the matter has been posted for Judgment firstly on 28.3.2001 and on that day, the Judgment was not delivered and the Judgment has been delivered only on 30.3.2001 and favourable Judgment has been rendered in O.S. No. 501 of 1995 and that the suit in O.S. No. 502 of 1995 has been dismissed and the documents produced for O.S. No. 501 of 1995 has been produced in O.S. No. 502 of 1995 and he has preferred appeal in A.S. No. 76 of 2003.

22. P.W.1 in his cross examination has deposed that he is serving as a Regional Manager of the Insurance Company at Pudukottai and he knows that English year, month and the date and in his complaint, he has not stated at what time, on what date, the unacquainted person sent by the Judge has come and met him at what place and further that the unacquainted person has come before one week the deliverance of Judgment has also not been stated in the complaint and while standing near the District Court, the said unacquainted person has come and met him has also been not stated and on what date the said unacquainted person has come near the Court has not been mentioned in Ex P1 complaint and further in Ex P1 complaint, he has not stated that after the said person informed him that two

days later that he has not been keeping good health and therefore a known person brought him in a TVS 50 to the Lodge, and he has also not mentioned in the complaint as to who has brought him to the lodge and the person who has brought him has been standing at the door steps has also not been mentioned in the complaint and in the complaint in what floor and in what room of the lodge, the incident has occurred has not been mentioned specifically and these details have not been mentioned specifically and these details have not been mentioned in the enquiry of the Vigilance Officer and his complaint is that enquiry in two cases, the Officer has demanded a sum of Rs. 12,500/- in each case and this has not been mentioned in his complaint and totally a sum of Rs. 25,000/- has been demanded has been made a mention of in the complaint and if money is not tendered then the Judgment will go against him as spoken to by the Judge has not been mentioned in his complaint and that he got tensed after the pronouncement of Judgement and hence he lodged the complaint.

23. It is further evidence of P.W.1 in his cross examination that in his complaint as well as in the enquiry, he has not mentioned the specific date on which he has met the Judge.

24. P.W.2, the wife of the complainant P.W.1 in her evidence has deposed that she has filed two cases viz., O.S. No. 501 of 1995 and 502 of 1995 on the file of the Additional District Munsif Court, Pudukottai in the capacity as General Power of Attorney and O.S. No. 501 of 1995 has been filed against the defendant praying for the relief of declaration that the suit property belongs to her and also for recovery of possession, besides claiming damages for usage of a sum of Rs. 3,500/- from the defendant and for costs and O.S. No. 502 of 1995 has also been filed for similar relief and she has been examined as a witness in the case and on her side, documents were also marked and for Judgment the case has been posted to 28.3.2001 and on 30.3.2001, the Judgment has been delivered and when the case has been pending trial, her husband-P.W.1 informed her that the delinquent Judge has demanded money from him and he replied that the records are in their favour and why should the money be paid. She also deposed that her husband only has been looking after the cases and in O.S. No. 501 of 1995, the Judgment has been delivered in her favour and O.S. No. 502 of 1995, the Judgment has gone against her.

25. P.W.2 in her cross examination has stated that she does not remember the date, time, during which the Judge has demanded money as informed by her husband and her husband has informed her that the Judge demanded some thing 2, 3 days prior to the pronouncement of the Judgment and her husband is a Insurance Agent and her husband informed her that he has met the Judge on the date when the Judge asked him to met and on the date when her husband has met the Judge , her husband has informed her about the same and she has informed the Vigilance Officer that one day before the deliverance of Judgment, the Judge has demanded money from her husband and her husband has given a complaint to the Vigilance,

after few days and that after 5 or 6 months the complaint has been given.

26. P.W.3 Palanivel (Office Assistant) in his evidence has stated that he has served as an Office Assistant with the writ petitioner/Officer when the Judge has been serving at Pudukottai as Additional District Munsif and that the Judge has been staying in the room of the Central Lodge on a monthly basis and he has been staying alone and that he used to go to his room for the purpose of cleaning and at that time, along with him Office Assistant Mariappan was also serving in the Additional District Munsif Court, and that he was not staying in the room during night time along with the Judge.

27. P.W.3 in his cross examination has specifically stated that the writ petitioner/officer has not been married and that his room has been in the upstairs and since the officer has been staying alone since he is not having any family member, he was not staying during night time.

28. P.W.4 Mariappan(Office Assistant) in his evidence has stated that the writ petitioner/Judge has been staying in the Central Lodge with whom he had served as an Office Assistant and since he is a handicapped person, the Judge will not allow him to do the work in the room and only another Office Assistant Palanivel used to do the work of the room in the lodge and one time, he has gone along with Palanivel to the lodge to clean the room and during lunch time, he used to buy meals to the Judge and he will not stay during night time along with the Judge.

29. P.W.5 Abdul Hameed (Junior Assistant cum Bench Clerk) in his evidence has stated that from 28.4.1998 till his retirement he served as Bench Clerk in Pudukottai, First Additional District Munsif Court and at that time, till 30.4.2001, the writ petitioner served as the First Additional District Munsif, Pudukottai and the Judge during his tenure has delivered Judgments in O.S. No. 501 of 1995 and O.S. No. 502 of 1995.

30. P.W.5 in his cross examination has stated that the Judge will perform any work at any time in Court itself and notes will be given to the Steno in the Court itself and that the Steno will not be called to the room and even during day time, the Office Assistant will be in the Court and the Judge will not use them for his personal work and since the Judge has no family, for his work, the Office Assistant will not go to the lodge.

31. The learned senior Counsel for the writ petitioner submits that the complainant viz; the husband of P.W.2 has filed a complaint 2 ♦ months after the pronouncement of Judgment in O.S. No. 501 of 1995 and O.S. No. 502 of 1995 dated 30.3.2001 and further than P.W.1 complainant in his evidence before the Inquiry Officer has stated that one week prior to the deliverance of Judgment, an unacquainted person sent by the Judge has come and met him and before the Vigilance Cell, P.W.1 has stated that prior to the deliverance of Judgment in two cases through unknown person, the Judge Seetharaman has asked him to come and

meet him in the Central Lodge Pudukkottai after 10.00p.m., during night, where he has been staying. But P.W.2 the wife of P.W.1 in her cross examination before the Inquiry Officer has stated that one day prior to the deliverance of Judgment, the Judge has demanded money from her husband and this has been informed to the Vigilance Officer and also at one place in the cross examination P.W.2 has also stated that 2,3 days before the deliverance of Judgment, her husband has informed her that the Judge has demanded money and therefore, there is a contradiction the evidence of P.W.1 and P.W.2 and the same cannot be relied upon. It is also the contention of the learned senior Counsel for the writ petitioner that P.W.2/wife of P.W.1 in her evidence before the Inquiry Officer has stated that she does not remember the date, time informed by her husband as to the demand of the money made by the writ petitioner and therefore, the evidence of P.W.2 is not a direct one and the same is only a hearsay evidence and the same is not sustainable in law.

32. Continuing further, the learned Counsel for the writ petitioner contends that in Ex P1 complaint, P.W.1 the complainant has not mentioned that he has not well and that his friend has taken him in a TVS 50 and parked the vehicle outside and then met the writ petitioner. But the same has not been made a mention of in the deposition of P.W.1 when he has been examined by the Inquiry Officer and if really, the person who was reportedly taken P.W.1 in TVS 50 has been examined, then, the truth might have been elicited and as a matter of fact, the evidence of P.W.3 to P.W.5 will not help the complainant P.W.1 and in short, the finding rendered by the Inquiry Officer viz., The principal District Judge, Thanjavur is not an acceptable one and prays for allowing the writ petition.

33. In the decision reported in *S. Thirupathy v. State of Tamil Nadu* reported by its Chief Secretary to Government, Chennai 2004(3) MLJ 434 this Court has, *inter alia*, observed as follows:

The High Court has control over subordinate Courts under Article 235 of the Constitution of India. In order to ensure strict discipline among the Judicial Officers of the State, a strict vigilance is necessary and so also a strict view in dealing with the Judicial Officers/Delinquents. That is necessary to weed out corrupt officials in the judiciary so as to ensure the purity of justice to hand out impartial justice. Justice delivery system is one of the basic pillars of democracy and is a basic feature of the Constitution. The High Court has a great deal of responsibility in this regard.

Equally, the High Court has got the responsibility to see that independence of judiciary is not in peril and that subordinate Judges are not subjected to undue harassment at the hands of unscrupulous litigants and advocates and see that independence of judiciary is not shaken and the judicial officers are placed in such a safe and strong position enabling them to function efficiently without fear. The moment fear is inculcated in the minds of the judicial officers, justice delivery system suffers a setback as a result of brow-beating by the disgruntled persons. More should be the care and caution when a litigant before a subordinate Judge

himself is the complainant and who had an axe to grind having suffered an adverse judgment.

In a judicial review, normally, appreciation of evidence is not resorted to. But, when the failure on the part of the authority to look into the material facts or evidence, which cut at the roots of the allegation and that too, a serious one like in the instant case, and the disciplinary proceeding being quasi-judicial in nature, not only should there be reasons, but those reasons should have supporting material.

34. In a decision reported in [Government of Tamil Nadu Vs. K.N. Ramamurthy](#), the Honourable Supreme Court has held that " The Tribunal or the Court can interfere only if on the charges (read with imputation or particulars of the charges, if any) no misconduct or other irregularity alleged can be said to have been made out, or the charges framed are contrary to any law".

35. In the decision reported in [Union of India and Others Vs. K.K. Dhawan](#), at page 57 the Honourable Supreme Court has held as follows:

When an officer in exercise of judicial or quasi-judicial powers acts negligently or recklessly or in order to confer undue favour on a person he is no acting as a Judge. There is a great reason and justice for holding in such cases that the disciplinary action could be taken. It is one of the cardinal principles of administration of justice that it must be free from bias of any kind. The observation of the Supreme Court in V.D. Trivedi case that "the action taken by the appellant was quasi-judicial and should not have formed the basis of disciplinary action" was made to buttress the ultimate conclusion that the charge framed against the delinquent officer had not been established and therefore, it could not be construed as laying down the law that in no case disciplinary action could be taken if it pertains to exercise of quasi-judicial powers.

36. In the decision reported in Union of India v. Duli Chand 2006(5) Supreme Court Cases 680 at page 681 the Hon"ble Supreme Court has held thus:

In [Union of India and Others Vs. K.K. Dhawan](#), , Court listed six instances when an who exercised judicial or quasi-judicial acting negligently or recklessly could be proceeded against by way of disciplinary action. The present case would fall squarely within the fourth instance listed therein. The impugned decisions are accordingly set aside and the order of punishment upheld.

37. Integrity is uprightness, honesty or purity, devotion to duty is faithful service. If a public Officer is required to maintain integrity and to be devoted to duty, he is merely asked to keep within the bounds of that administrative decency which goes by the name of civilized administration.

38. Generally speaking, the terms "misconduct" inter alia enjoins/envises breach of discipline although it would not be possible to lay down exhaustively as to what would constitute "misconduct" and "indiscipline" which however is wide enough to

include wrongful omission or commission, whether done or omitted to be done intentionally or unintentionally. Misconduct though incapable of precise definition on reflection, it receives its connotation from the context delinquency in performance and its effect on the discipline and nature of duty. For example, it might involve moral turpitude or improper or wrong or unlawful behaviour which is useful in character or a forbidden act, a transgression of an established and definite rule of action or conduct but not mere error of judgment or carelessness or negligence in performance of one's duty.

39. It is true that " Judicial integrity is not a private venture but a public necessity and also it is to be borne in mind that " every Judge must at all times be conscious that he is under public gaze and there should be no act or omission by him which is unbecoming of the high office, he occupies and the public esteem in which that office is held".

40. Also on behalf of the writ petitioner , it is submitted before this Court that an Inquiry Officer viz., The principal District Judge, Tanjavur has not considered the written statement and written argument of the petitioner.

41. The writ petitioner in his evidence as D.W.1 before the Inquiry Officer has stated that he served as Additional District Munsif, Pudukottai from 2.3.1998 to 30.4.2001 and since there is no attached quarters facility for the Additional District Munsif and moreover since he was a bachelor, he was staying in Room No. 6 of the Pudukottai Central Lodge which has two floors viz., down stair and upstair portion and that totally there were fifty rooms and till he has been transferred, he has been stayed in the lodge and that he does not know P.W.1 and he has come to know him at the time of let in evidence before the Inquiry Officer and when he has taken charge in his Court two cases viz., O.S. No. 501 of 1995 and O.S. No. 502 of 1995 were pending trial and P.W.2 has filed an application praying to amend the plaint and the same has been dismissed and later an appeal has been filed before the High Court and as per the decision in the appeal, the application has been filed to amend the plaint and the same has been allowed by him and the plaint has been amended and before his predecessors an application to amend the plaint has been filed and the same has been dismissed and this fact, he came to know through the records and in O.S. No. 501 of 1995, the defendant has accepted the case of the plaintiff and has filed the written statement and on that basis issues have been framed by his predecessors and as per the order of Hon'ble High Court, he has framed an additional issue and in the suit, on both sides, no oral evidence has been let in and only documents have been marked and since the defendant has stated that he has no objection for passing a Judgment in O.S. No. 501 of 1995 and also in lieu of the fact that already issues were framed he passed a Judgment in favour of the plaintiff.

42. It is the further evidence of D.W.1 that in O.S. No. 502 of 1995 oral and documentary evidence had been let in on both sides and the suit was hotly contested between the parties and on consideration of oral and documentary

evidence, he has come to the conclusion that the plaintiff is not entitled to get any relief and ultimately dismissed the suit in O.S. No. 502 of 1995 and in both suits, P.W. 1 Paneerselvam is not a party and he has not appeared before the Court in plaintiff's two cases and adduced evidence and it is wrong to state that prior to the deliverance of Judgment in two suits, P.W.1 has been asked by him to come and met at the Central Lodge, after 10.00.p.m as spoken to by P.W.1 in his evidence and it is false for P.W.1 to state that he has demanded a sum of Rs. 12,500/- in each suit and in all, a sum of Rs. 25,000/- for delivering Judgments in the aforesaid cases in favour of the plaintiff and that P.W.1 either during his stay at the lodge or during the period of pendency of the cases till their disposal or till his transfer, has never met and spoken to him and the contra version deposed by P.W.1 is a false one and more over he has not asked anyone to approach P.W.1 and to bring him to meet him and the evidence of P.W.1 in this regard P.W.1 is a false one.

43. D.W.1(delinquent officer) in his cross examination has deposed that to some extent, he knows Civil Procedure Law and he has delivered two Judgments, two orders after assuming office and he is aware what kind of procedure to be followed since the defendant is accepted the case of the plaintiff in the written statement and that he has not delivered Judgment by following the provision of Order 12 Rule 6 of CPC and in O.S. No. 501 of 1995 and O.S. No. 502 of 1995, he has not followed Order 15 Rules and he has delivered Judgments in two cases because they are related with each other and in both suits viz., O.S. No. 501 of 1995 and O.S. No. 502 of 1995, the relief prayed for and the properties are one and the same etc.

44. Continuing further D.W.1 in his cross examination has stated that he does not know whether an appeal has been filed against the Judgment delivered by him in O.S. No. 502 of 1995 and that the said appeal has been allowed and in both the suits, the documents filed are the same. More over, D.W.1 in his re examination has stated that in O.S. No. 501 of 1995, the defendant in his cross examination has accepted that the suit property is not in his possession and therefore in the Judgment delivered by him , he has come to the conclusion that the defendant is accepted the same and accordingly decreed the suit. He has also delivered the Judgment in O.S. No. 501 of 1995 on the basis of the defendant's evidence in view of the fact that the full Judgment has to be rendered, after the examination of the witness.

45. As far as the present case is concerned, it is not in dispute that the complainant P.W.1 and his wife P.W.2 are Tamil refugees from Sri Lanka and they have been residing at Nadhamponni of Thirukokarnam in Pudukottai District. Admittedly, one Sadaiyan,son of Kandasamy and Muniyandi, son of Kandaiya @ Kandasamy are also refugees from Srilanka, who are the neighbours of P.Ws 1 and 2. Indeed, the Government has allotted three cents of lands to each of them viz., Kandasamy and Kandaiya @ Kandasamy and provided them with housing loans, which are later on been written off. Thereafter, Kandasamy, Kandaiya @ Kandasamy have gone to

Nilgiris in search of Job. P.W.2 Parvathy, the wife of P.W.1, is the power agent of the said Kandasamy and Kandaiya @ Kandasamy. As a matter of fact, P.W.2 has filed two cases viz., O.S. No. 501 of 1995 and O.S. No. 502 of 1995 against Rasu @ Subraj on the file of the learned Additional District Munsif, Pudukottai in her capacity as Power agent. In the two suits, the relief of declaration of title of the plaintiff to the suit property, recovery of possession from the defendant, who has been tenant under the plaintiff and damages of Rs. 3,600/- for use and occupation and future damages have been sought for by the plaintiff.

46. The defendant has repudiated the claim of the plaintiff in the two suits by himself claiming title by virtue of an oral sale from some unnamed Srilankan refugees. It is not a matter in controversy that the writ petitioner/officer has tried the two suits viz., O.S. No. 501 of 1995 and 502 of 1995 on his file and he has decreed the suit in O.S. No. 501 of 1995 in part and dismissed the relief of recovery of damages of Rs. 3,600/- for use and occupation and for future damages and he has dismissed O.S. No. 502 of 1995 in entirety. In O.S. No. 501 of 1995 on the file of the learned Additional District, Pudukottai, the plaintiff Kandasamy has been represented by his power agent Parvathy (P.W.2). In the said case, Rasu @ Subraj is the defendant. The Judgment delivered on 30.3.2001 in O.S. No. 501 of 1995 on the file of the Additional District Munsif Court, Pudukottai has been marked as Ex P12 before the Inquiry Officer. Likewise, the Judgment delivered in O.S. No. 502 of 1995 dated 30.3.2001 on the file of the Additional District Munsif Court, Pudukottai has been marked as Ex P17. Significantly, in O.S. No. 502 of 1995, Kandaiya @ Kandasamy is the plaintiff represented by his power agent Parvathy(P.W.2) and the defendant is Rasu @ Subraj.

47. The specific charge against the writ petitioner/Officer is that while he has been serving as Additional District Munsif, Pudukottai, he has called one Pannerselvam (Complainant-P.W.1) to his room at Central Lodge where he has been staying and demanded a sum of Rs. 25,000/- as bribe for delivering a favourable Judgment in O.S. No. 501 of 1995 and O.S. No. 502 of 1995, the suits filed by his wife(P.W.2 Parvathy) and on refusal to comply with the said demand by the complainant Paneerselvam, he has partly decreed the suit in O.S. No. 501 of 1995 and in entirety dismissed the suit in O.S. No. 502 of 1995 even though the parties are the same and issues in both suits are similar and thereby he has indulged in corrupt practice and conduct unbecoming thereby rendering himself liable to be punished under Tamil Nadu Civil Services (Discipline and Appeal) Rules 1973.

48. It is not out of place to point out that the strict adherence to the principles of Indian Evidence Act do not apply to the departmental. In the proceedings, the prosecution has to prove the charges against the delinquent/Officer on preponderance all probabilities of case. In the present case on hand, the evidence of P.Ws 3 to 5 before the Inquiry Officer are all little assistance to the complainant's side. P.W.1, the complainant who has given complaint Ex P1 dated 23.5.2001, has

been serving as a Regional Manager of the Insurance Company at Pudukottai. Admittedly, he is not a novice. He has given a complaint dated 23.5.2001 after a day of 53 days when the Judgments in two cases in issue have been delivered on 30.3.2001. Further, in his complaint in Ex P1 dated 23.5.2001 addressed to the Special Officer, Vigilance Cell, High Court, Madras, he has not mentioned the time, date and the place and the name of the person purported to have been sent by the Judge Seetharaman has met him and also in the complaint, he has not stated that one week prior to the deliverance of Judgment that person has come and more over, he has also not mentioned that while standing near the District Court, the said person has come and met him. Indeed, P.W.1 in his cross examination has tacitly admitted on what date, the said individual has come to see him near the Court has not been made mention of in Ex.P1 complaint and added further he has also candidly stated that two days after the person who informed him since he has not been keeping well, a known person has taken him in a TVS 50 to the Lodge and this has not been mentioned by him in ExP1 complaint and he has also not mentioned the name of the person who has brought him to the Lodge in the complaint Ex P1. It is significant to point out that in ExP1 complaint (P.W.1 Complainant) has mentioned that D.W.1 Delinquent Officer has demanded a sum of Rs. 25,000/- for delivering a favourable Judgments in O.S. No. 501 of 1995 and O.S. No. 502 of 1995 filed by his wife Parvathy. Ex P1 Complaint, nowhere speaks of D.W1/Delinquent Officer viz., the writ petitioner demanding a sum of Rs. 12,500/-in each case to render a favourable Judgment in the said two suits.

49. At this stage, it is worth to recall the evidence of P.W.1 (complainant) before the Inquiry Officer to the effect that one week prior to the deliverance of Judgments , an unacquainted person sent by the Judge has come and met him and that person has informed him that the Judge Seetharaman has asked him to meet the Judge at the Central Lodge after 10.00p.m where the Judge has been staying and also he has stated that the person who has taken him has been asked by him to stand at the door steps and that he alone has gone into the room. But, conspicuously, this aspect does not find place in Ex P1 complaint. The unacquainted person sent by the writ petitioner/Officer who has informed the complainant to meet the Judge at the Central Lodge at 10.00p.m has not been identified by the complainant's side and further that person has not been examined as witness on the side of the complainant. Likewise, the person known to P.W.1 who has taken him in TVS 50 has also not been identified and examined in the case. There non examination in the departmental enquiry on the complainant's side before the Inquiry Officer is not a favourable circumstances in favour of the complainant's side.

50. Apart from the above, the evidence of the complainant P.W.1 as to the effect that before the deliverance of Judgment one week prior to it an unacquainted person sent by the writ petitioner/officer has come and met him and that the said person has come and met him near the Pudukottai District Court and that the said person has informed him that the Judge Seetharaman has asked him to come and meet him

at the Central Lodge at 10.00p.m where he has been staying and after two days, since he was not keeping good health, he was taken in a TVS 50 by a known person and they gone to the lodge and the person who has taken him into TVS 50 has been asked to stand at the door steps and he alone has entered into the room where the Judge alone has been there and that the Judge has demanded a sum of Rs. 25,000/- to render favourable Judgment in O.S. No. 501 of 1995 and 502 of 1995 filed by his wife. But the evidence of P.W.2, the wife of P.W.1 in her cross examination has clearly deposed that she does not remember the date and time, the Judge has demanded the money as informed by her husband and her husband has informed that the demand of money has been made 2,3 days before the deliverance of Judgments. Therefore, from the evidence of P.W.1 and P.W.2 as narrated above, there is contradiction or variation in regard to the exact date on which the writ petitioner/Officer has demanded money prior to the deliverance of Judgment in two suits in issue and as such their evidence is not worthy of credence and the same is not accepted. Also that the evidence of P.W.2 that the delinquent Officer has demanded money from her husband P.W.1 is only a hearsay one, as spoken to by P.W.1 to her viz., P.W.2 and what remains is the evidence of P.W.1, the complainant, and according to him, he has gone to the room of the Central Lodge at Pudukottai where the writ petitioner/Officer has been staying and the Officer demanded a sum of Rs. 25,000/- for delivering a favourable Judgment in the two suits filed by his wife. In effect, the allegation against the writ petitioner/Officer that he has demanded a bribe of Rs. 25,000/- for delivering a favourable Judgments in two suits instituted by the wife of the complainant P.W.1 is a serious one. Even a solitary evidence of a complaint/witness in a departmental enquiry if it inspires the confidence of Courts and satisfies its judicial conscience, then, the same can be accepted as a clinching and unimpeachable one. In addition, the proof of a fact depends upon the degree of probability of its having existed.

51. It is not in dispute that P.W.2, the wife of P.W.1 who has represented the plaintiff in the two suits in O.S. No. 501 of 1995 and O.S. No. 502 of 1995 as a power agent has obtained partly favourable Judgment in O.S. No. 501 of 1995 and an order of dismissal of O.S. No. 502 of 1995.

52. One cannot brush aside an important fact that the disciplinary proceedings are being quasi Judicial in nature and the reason arrived at by the Inquiring Authority must be based on reasons and supporting materials. In the present case on hand, though the evidence of P.W.1 (Complainant) is to the effect that the writ petitioner/delinquent Officer has demanded a bribe of Rs. 25,000/- from him for delivering a favourable judgment in the two cases in issue at the Central Lodge at Pudukottai after 10.00p.m one week prior to the deliverance of Judgment, the same has not been corroborated in material particulars to the satisfaction of this Court.

53. Further the word "Corroboration" is not a technical term of art, it means by itself no more than evidence tending to confirm, support or strengthen other evidence.

"Corroboration" is nothing other than evidence which confirms or supports or strengthens other evidence.

54. Suffice it for this Court to point out that a need for Corroboration and for accepting evidence of any witness arises only when the Court is not satisfied in regard to the credibility of a particular witness. In short, "corroboration" is simply rule of prudence and not one of rule of law and it is entirely the matter of Judicial discretion. Furthermore, the purpose of "corroboration" is not to give validity or credence to evidence which is deficient or suspect or incredible but only to confirm or support the evidence which is sufficient and satisfactory and credible and corroborative evidence will only fill its role if it itself is completely credible. Moreover, the term "corroborate" is to give strength ; to give support, to give additional strength; to make more certain; to add weight or credibility to a thing.

55. Inasmuch as the evidence of P.W.1 in regard to the allegation that the writ petitioner has demanded a bribe of Rs. 25,000/- for rendering a favourable judgment in two cases in issue has not been corroborated by any other acceptable evidence. More so, there is contradiction in regard to the evidence of P.W.1 and P.W.2 as to the date on which the writ petitioner has demanded a bribe of Rs. 25,000/- from P.W.1. The role of the complainant side is onerous to bring home the charge of demand of bribe against the writ petitioner and in the present case on hand, on the side of the complainant, the same has not been discharged to the satisfaction of this Court and therefore, we are not in agreement with the contra view taken by the Inquiry Officer viz., the Principal District Judge, Thanjavur in his report dated 21.6.2007.

56. Coming to the aspect that the writ petitioner/Officer has partly decreed the suit in O.S. No. 501 of 1995 and in entirety dismissed the suit in O.S. No. 502 of 1995, it is the categorical evidence of the writ petitioner(D.W.1) before the Inquiry Officer that he has not delivered Judgment as per Order 12 Rule 6 of CPC and that he has not followed the ingredients of Order 15 in regard to the suit in O.S. No. 501 of 1995 and O.S. No. 502 of 1995 and that since the two suits are connected, he has delivered Judgments in two cases.

57. It is useful to refer to Order 12 Rule 6 of CPC relating to the Judgment on admissions which enjoins as follows:

1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing the court may at any stage of the suit, either on the application of any party or of its motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit having regard to such admissions

2) Whenever a judgment is pronounced under Sub-rule (1) a decree shall be drawn up in accordance with the Judgment and the decree shall bear the date on which the Judgment was pronounced.

58. It is to be noted that the ingredients of Order 12 Rule 6 of CPC are only discretionary and not a mandatory one and as the matter of fact the meaning of Order 12 Rule 6 of CPC should not be unduly narrowed down because the object of Order 12 Rule 6 of CPC is enable a party to obtain a speedy Judgment. Also an application of Order 12 Rule 6 of CPC is to be exercised by a Court of Law very carefully, sparingly and only in exceptional circumstances. Inasmuch as the ingredients of Order 12 Rule 6 of CPC to be followed by a Court of Law is only a discretionary one and not a mandatory one, the act of the writ petitioner, in not passing a Judgment immediately though the defendant in the said suit has accepted in his written statement and in the additional written statement the case of the plaintiff, can only be construed as a case of not following the procedure as enunciated under CPC for which no motives can be attributed to him, particularly in view of the fact that the allegation of bribe made against the petitioner was not at all proved.

59. As regards the issue of the writ petitioner/delinquent Officer dismissing O.S. No. 502 of 1995 in entirety by his order dated 30.3.2001 against the plaintiff in the said suit, represented by the power of Attorney P.W.2, it is to be pointed out that the writ petitioner in paragraph 9 of his Judgment has inter alia held that "just because Ex A2 document is in the hands of P.W.1, it cannot be taken into account that through Ex A1, P.W.1 has managed the same for the reason that in Pudukottai District, the properties allotted to the Srilankan Refugees by the Government, the refugees after receiving money from the others have gone to Tea plantations in different stations in connection with the job and this fact comes to be known to the Court from many cases and also in later portion of paragraph 9 of his Judgment in O.S. No. 502 of 1995, the writ petitioner has also observed that as regards the allotment of a land to the Srilankan Refugees a sale deed cannot come into existence etc and therefore D.W.1(Defendant) has purchased the properties from the aforesaid Kandasamy through oral sale as opined by it.

60. At this stage, it is significant for this Court to point out that in the written statement and in the additional written statement of the defendant in O.S. No. 502 of 1995, the defendant has not averred anything in regard to the factum of the oral sale, the date on which the said sale has come into existence, the amount of sale consideration and the name of the vendor. Therefore, the observations made by the writ petitioner/officer in his judgment in O.S. No. 502 of 1995 dated 30.3.2001 referred to earlier are not based on sound principles of knowledge of law and procedure. But A.S. No. 76 of 2003 filed by the plaintiff before the Principal District Judge, Pudukottai, the appeal has been allowed with costs on 7.2.2003 holding that the plaintiff is entitled to the relief of declaration of title and recovery of possession in respect of the suit property against the defendant in the suit and ultimately the Judgment delivered by the writ petitioner in O.S. No. 502 of 1995 dated 30.3.2001 was set aside and further a direction was issued to the respondent/defendant to deliver the possession of the suit property to the appellant/plaintiff within a month

from the date of the Judgment. As against the rejection of claim made in the plaint towards damages in respect of use and occupation in O.S. No. 501 of 1995, the plaintiff has not preferred any appeal.

61. It is to be pointed out that from the records place before us, we are able to see that the petitioner joined in the service in the year 1991 this impugned action has been initiated against him in the year 2001 that is within a short period of three years of his joining the service. At this juncture we deem it proper to cite the decision in Ishwar Chand Jain v. High Court of Punjab and Haryana and Anr. (1988) 3 SCC 370, wherein the petitioner was appointed as Additional District and Sessions Judge on probation for a period of two years in accordance with Rule 10(1) of the Punjab Superior Judicial Rules 1963 and while he was posted at Hissar, the Bar Association of Hissar has passed a resolution against him as a result of which he was transferred from Hissar to Narnaul as Additional District and Sessions Judge and while he was posted at Narnaul, inquiry into certain complaints against him was held by a Judge of the High Court and after the inquiry the High Court at its meeting held on 21.3.1985, resolved that the petitioners work and conduct has not been satisfactory during his probationary period and as such his services deserved to be dispensed with forthwith and under those circumstances the Hon"ble Apex Court has held as follows;

The High Court had no relevant material in coming to the conclusion that the appellant's work and conduct were not satisfactory during his probationary period. Some of the materials which were taken into account were non-existent and the others were not relevant and further the allegations which were taken into consideration remained unsubstantiated. The resolution passed by the Bar Association against the appellant was wholly unjustified and the complaints made by the advocates were motivated which did not deserve any credit. Even the vigilance judge after holding enquiry did not record any finding that the appellant was guilty of any corrupt motive or that he had not acted judicially. All that was said against him was that he had acted improperly in granting adjournments. Having regard to the entire material, it must be held that the High Court committed error in holding that the appellant's work and conduct were not satisfactory and that his services were liable to be terminated.

Every judicial officer is likely to commit mistake of some kind or the other in passing orders in the initial stage of his service which a mature judicial officer would not do. However, if the orders are passed without their being any corrupt motive, the same should be over looked by the High Court and proper guidance should be provided to him. If after warning and guidance the officer on probation is not able to improve, his services should be terminated.

Under the Constitution, the High Court has control over the subordinate judiciary. While exercising that control it is under a constitutional obligation to guide and protect judicial officers by ignoring ill-conceived or motivated complaints made by

unscrupulous lawyers and litigants. An independent and honest judiciary is a sine qua non for rule of law. If Judicial officers are under constant threat of complaint and enquiry on trifling matters and if High Court encourages anonymous complaints to hold the field the subordinate judiciary will not be able to administer justice in an independent and honest manner. Similarly, if the members of the Bar Association pass resolution against the presiding officers working in subordinate courts without there being any justifiable cause it would be difficult for judicial officers to perform their judicial functions and discharge their responsibilities in an objective and unbiased manner.

62. Also in D. Amaladoss Vs. The State of Tamil Nadu and The High Court of Judicature at Madras, , a Division Bench of this Court, headed by one of us (Elipe Dharma Rao, J.) while dealing with the case of the judicial officer who was dismissed from service after conducting an enquiry with a delay of six years in initiating and completing the enquiry, based on the complaint given by persons involved in criminal cases pending before the said Judicial Officer, has quashed the departmental proceedings and the order of dismissal, observing as follows:

Departmental proceedings cannot be initiated against Judicial Officers on the basis of ill-conceived or motivated complaints made by unscrupulous litigants and lawyers. Order of dismissal from service, passed against the Judicial Officer on the basis of complaint made by persons involved in criminal cases are liable to be quashed.

63. Similar is the situation in the case on hand also. The complainant (P.W.1) is the brain behind the filing of two suits by his wife(P.W.2). Since an unfavourable Judgment was passed in one of the said suits, he has given the false complaint against the petitioner with a long delay which practice should not be encouraged. If such a practice is encouraged and acted upon, there will be no security for the Judicial Officers in rendering their services of dispensation of justice without any fear or favour.

64. We are aware that "Judicial Review is not an appeal from a decision but a Review of the manner in which the decision has been made and it is not directed to the decision, but to the decision making process. The powers of Judicial Review are meant to ensure that an individual receives a fair treatment." However, as has already been pointed out by us supra, as against the impugned order of removal from service passed against the petitioner, he has no appellate remedy, so as to assess the factual aspect of the case and the only remedy available to him is to file a writ petition under Article 226 of the Constitution of India, which he did by filing this writ petition. Therefore, to uphold the majesty of justice, we have discussed the evidence available on record. Though on the side of the petitioner a plea was taken that no opportunity of hearing was given to him either by the first respondent or the second respondent or even by the Hon"ble Administrative Committee or by the Full Court of this Court, on going through the entire records we are satisfied that the

petitioner was given adequate and sufficient opportunities and there was no violation of the principles of natural justice.

65. When the writ petition has come up for hearing on 4.9.2009 the first respondent Counsel was directed to ascertain the possibility of reducing the punishment to the petitioner and the Administrative Committee of this Court in its meeting held on 1.9.2009 has resolved to place this matter in the next Full Court meeting for its deliberation and the Full Court of this Court, in the meeting held on 3.9.2009, has resolved to direct the Registrar General Madras to instruct the learned Counsel appearing for the High Court to make a statement before the Division Bench of this Court that "the Hon"ble Court may decide about the punishment, short of removal" and accordingly this Court has been informed.

66. Be that as it may, in the present case on hand taking into account the over all assessment of the facts and circumstances of the case in a cumulative and integral fashion, since the prime charge of bribery against the officer has not been established to the satisfaction of this Court and even the other charge that the petitioner on account of the refusal of the complaint/P.W.1 to pay the bribe as demanded, has partly decreed the suit in O.S. No. 501 of 1995 and dismissed the suit in O.S. No. 502 of 1995 by corrupt motive in favour of the defendant has also not been proved to the subjective satisfaction and Judicial conscience of this Court, and viewed in that perspective, we are inclined to allow the writ petition to prevent an aberration of justice and to promote substantial cause of justice.

67. As we are of the considered view that the petitioner was unnecessarily made to suffer at the ill-motivated complaint made by the complainant (P.W.1), the principle of "no work, no pay" has no application to the case on hand whatsoever and therefore he is entitled to all the service and monetary benefits.

68. In the result, the writ petition is allowed. We set aside the impugned order of penalty of removal from service imposed on the writ petitioner contained in G.O(D) No. 791 Home(Courts-1) Dated 4.7.2008 and order reinstatement of the petitioner with all monetary and service benefits as permissible and attached to the post of Civil Judge (Junior Division). The respondents are directed to implement the order of this Court within a period of three months from the date of receipt of a copy of this order. No costs.