

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 4.8.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI

AND

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P. No.23594 of 2015

Thiru. R.Alageswaran petitioner

Vs

The Honourable High Court
of Madras Rep. by The Registrar General
High Court Chennai-104. respondent

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorarified Mandamus Calling for the entire records in pursuant to the Official Memorandum issued by the respondent vide R.O.C. No.52/2000-Con.B2 dated 14.5.15 and quash the same and direct the respondent to modify the punishment awarded to the petitioner vide R.O.C. No.52/2000-Con.B2 dated 22.12.2004 issued by the respondent from dismissal from service to that of compulsory retirement from service as was awarded to his Co-delinquent Mr. R.Balasubramanian within a stipulated time.

For petitioner : Mr.T.P.Prabakaran

For Respondents : Mr.C.T.Mohan

O R D E R

(made by K.K.SASIDHARAN, J.)

The petitioner challenges the order dated 14 May 2015 dismissing the appeal filed to modify the penalty of dismissal from service as one of compulsory retirement.

The facts :-

2. While the petitioner was working as Sherisdhar in the office of Additional District Judge cum Chief Judicial Magistrate, Tirunelveli, the High Court initiated disciplinary proceedings against him on account of his involvement in an act of corruption. The Enquiry Officer appointed by the High Court submitted a report

and the same resulted in passing an order by the Disciplinary Authority dismissing him from service. The petitioner challenged the said order before this Court in W.P.No.38511 of 2005. The Writ Petition was dismissed. The related special leave petition was dismissed by the Supreme Court. Thereafter, the petitioner filed an appeal before the Registrar General primarily for the purpose of modifying the punishment. The appeal was dismissed. Feeling aggrieved, the petitioner is before this Court.

Submissions :-

3. The learned counsel for the petitioner contended that co-delinquent was given a lesser punishment and as such, the Registrar General was not correct in dismissing the appeal. According to the learned counsel, parity among co delinquents is an accepted principle and as such the Appellate Authority was not correct in negating the contention taken by the petitioner to the effect that he is entitled to a similar treatment.

Analysis :-

4. The Registrar General, Madras High Court, passed an order dated 22 December 2004, dismissing the petitioner from service. The said order was confirmed in appeal by order dated 9 September 2005. The petitioner thereafter, filed a Writ Petition in W.P.No.38511 of 2005. The Writ Petition was dismissed by order dated 10 June 2011. The said order was upheld by the Supreme Court by judgment dated 14 October 2011 in S.L.P.No.27193 of 2011. The petitioner thereafter filed a review petition before this Court. The review petition was dismissed by order dated 6 September 2012. The said order was unsuccessfully challenged before the Supreme Court in S.L.P.No.14856 of 2013. The petitioner thereafter initiated fresh proceedings by way of appeal for the purpose of modifying punishment.

5. The order dated 22 December 2004 was the subject matter in W.P.No.38511 of 2005. This Court, by order dated 10 June 2011 made it clear that the punishment of dismissal could not be considered as an arbitrary action by the High Court. Since this Court has made it very clear that the punishment of dismissal was not at all a disproportionate one, there is no question of modifying the punishment by the Registrar General subsequently.

6. The question raised by the petitioner with regard to the disproportionate nature of the punishment has already been rejected by this Court. The order was upheld by the Supreme Court. The petitioner now wanted a rehearing of the very Writ Petition under the guise of an appeal to modify the punishment. The order passed by the Registrar General does not call for interference.

7. In the upshot, we dismiss the Writ Petition. No costs.

Sd/-
Asst.Registrar (CS II)

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Sub Asst. Registrar

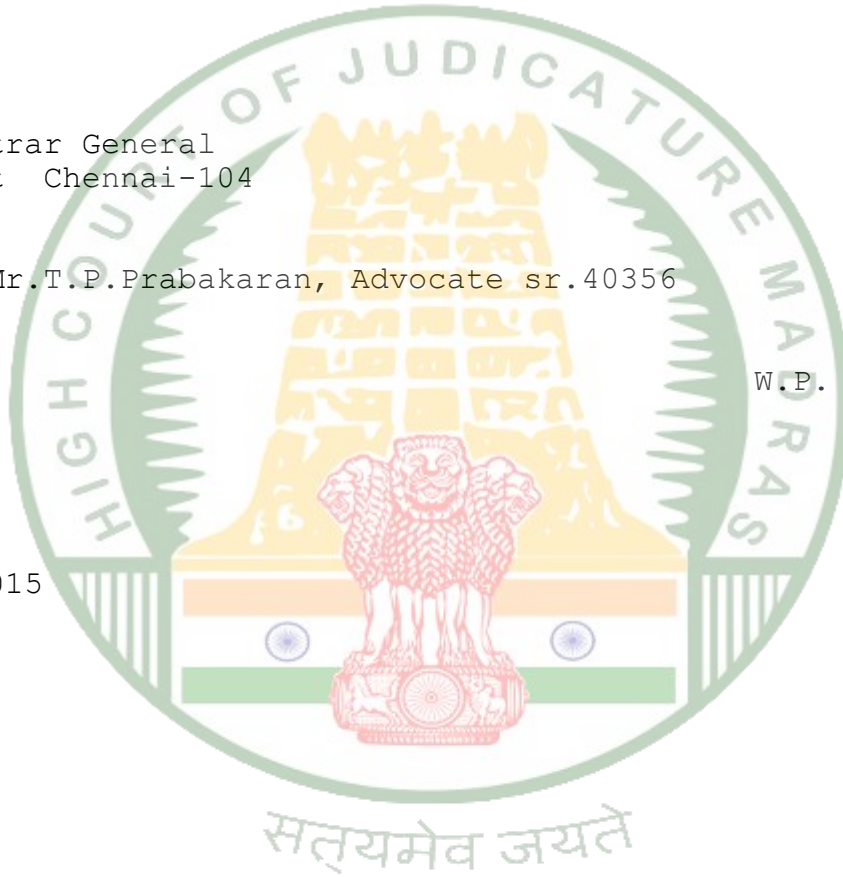
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To

The Registrar General
High Court Chennai-104

+1 cc to Mr.T.P.Prabakaran, Advocate sr.40356

W.P. No.23594 of 2015

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