

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

RESERVED ON : 01.06.2017
DELIVERED ON : 14.06.2017

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CORAM:
THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**
AND
THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**
Writ Appeal (MD) No.519 of 2017
and
CMP (MD) No. 4468 of 2017

C.Veerapandian : Appellant
Vs.

1. The Director General of Police,
O/o The Director General of Police,
Chennai - 600 004.
2. The Deputy Inspector of Police,
Dindigul Range,
Dindigul.
3. The Superintendent of Police,
Dindigul District,
Dindigul.
4. Ruthrasekaran
Deputy Superintendent of Police/
Enquiry Officer,
Vedasanthur Sub Division Office,
Dindigul District.

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent to allow the Writ Appeal and set aside the order in W.P.(MD). No.14884 of 2015, dated 19.08.2015 on the file of this Court.

Prayer in WP(MD). 14884/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus or order or direction in the nature of Writ, calling for the records from the respondents 1-3 in their proceedings in R.C.No.57067/AP.2(3)/2012 dated 22.04.2015, Review 13/A2/2009 dated 09.02.2009 and Tha.Pa.No.68/2006 Vithi 3(AA) dated 03.04.2008, respectively and Quash the same and consequently direct the respondents to restore the time scale of pay and grant increment due to the petitioner with applicable arrears within the time stipulated by this Hon'ble Court.



For Appellant : Mr.T.Lajapathi Roy
For Respondents 1-3 : Mr.V.Muruganandham
Additional Government Pleader

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JUDGMENT

[**Judgment** of the Court was made by **P.VELMURUGAN, J.**]

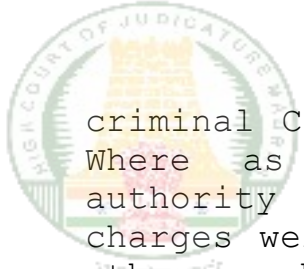
This Writ appeal is directed against the order dated 19.08.2015 passed in W.P.(MD) No.14884 of 2015 filed by the appellant/writ petitioner, challenging the impugned order imposing punishment of reduction in time scale of pay by three stages for three years with cumulative effect issued by the third respondent herein namely, The Superintendent of Police, Dindigul District, Dindigul, vide order dated 03.04.2008 and the impugned order dated 09.02.2009 on the review by the Deputy Inspector General of Police, Dindigul Range, Dindigul and also the impugned order dated 22.04.2015 on the mercy petition passed by the Director General of Police, Tamil Nadu, Chennai.

2.The case of the appellant/writ petitioner is that he was appointed as Police Constable on 24.05.1999 and he was working as Police Constable Grade-I at Armed Reserve (Motor Vehicle Section), Seelapadi, Dindigul District. While so, two criminal cases were filed against the appellant/writ petitioner in Cr.No.94 of 2006 for the offences u/s 75 of Madras City Police Act and in Cr.No.95 of 2006 for the offences u/s 3(b) of Tamil Nadu Subordinate Service (D&A) Rules and Simultaneously, disciplinary proceedings were also initiated against him. The Criminal cases ended in acquittal, however, he was imposed the punishment in the Disciplinary Proceedings as stated above. Against which, he filed a review petition, where, the same was dismissed and thereafter, he filed a mercy petition, which was also rejected against the appellant/writ petitioner. Challenging the above said orders, he filed a writ petition as stated above.

3.The learned Single Judge after perusing the records and considered the submissions made thereon, dismissed the writ petition. Aggrieved by the said order, the present writ appeal has been filed by the appellant/writ petitioner.

4.Heard Mr.Lajapathi Roy, learned counsel appearing for the appellant and Mr.V.Muruganandham, learned Additional Government Pleader appearing for the respondents.

5.The learned counsel appearing for the appellant would submit that the charges levelled against the petitioner in the departmental proceedings being identical to the charges before the

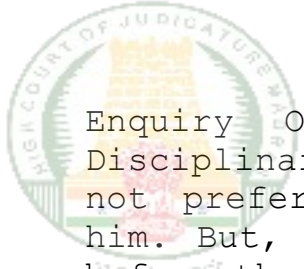


criminal Courts and the criminal Courts acquitted the petitioner. Where as in the departmental proceedings the disciplinary authority imposed the punishment on the petitioner. Both the charges were grounded upon the same set of facts and evidence. In other words, charges, evidence, witnesses and circumstances are one and the same. Therefore the punishment order passed by the disciplinary authority and impugned order passed by the single Judge are liable to be set aside. In support of his contention, he has relied upon the decision of the Hon'ble Supreme Court, in the case of, **G.M. Tank Vs. State of Gujarat & Another in Appeal Civil No.2582 of 2006, dated 10.05.2006.**

6.He would further submit that the learned Single Judge failed to consider the acquittal of the appellant in both the Criminal Cases is a relevant factor, as the appellant has been acquitted on merits and the acquittal is clean and not based on the benefit of doubt or any technical proposition. He would further submit that the learned single Judge, while dismissing the Writ Petition, made an observation in the judgement as, "when the Director General of Police, Tamil Nadu, Chennai, has found that the petitioner has not preferred any appeal against the original impugned order passed by the Superintendent of police, Dindigul District, Dindigul, this Court hardly finds any merits in this Writ Petition and the Writ Petition is dismissed", however, ought to have given liberty to the appellant/ writ petitioner to file an appeal before concerned authority before dismissing the Writ Petition.

7.The learned Additional Government Pleader appearing for the respondents would submit that the acquittal by a criminal Court will not bind the departmental proceedings and the punishment imposed by the Superintendent of Police, Dindigul is based on the findings rendered by the Enquiry Officer, which is based on the materials placed before him and the order of the learned Single Judge is perfect and needs no interference.

8.On a perusal of the order of the learned Single Judge in W.P.(MD) No.14884 of 2015 would show that two cases were filed against the appellant/writ petition in Cr.No.94 of 2006 for the offences u/s 75 of Madras City Police Act and Cr.No.95 of 2006 for the offences u/s 3(b) of Tamil Nadu Subordinate Service (D&A) Rules and simultaneously, disciplinary proceedings were also initiated against him. The Criminal cases ended in acquittal of the appellant and he was imposed punishment in the Disciplinary Proceedings. Though the learned counsel appearing for the appellant would submit as the criminal cases ended in acquittal on the same set of facts, evidence and witnesses, the punishment order is liable to be quashed in the interest of justice, We are of the view, that the acquittal in Criminal cases by the trial Court does not bind the Disciplinary Proceedings and the Enquiry Officer had rendered his findings only based on the materials and evidence placed before him and based on the findings of the



Enquiry Officer alone, the punishment was imposed by the Disciplinary Authority. However, the appellant/writ petitioner has not preferred any appeal challenging the punishment imposed on him. But, he merely filed a review petition and a mercy petition before the concerned authorities.

9. Further perusal of the said judgment would show that the petitioner was dealt with on two charges viz., for indulging in indecent behaviour in a public place in an intoxicated state and ignoring the instructions of the Sub Inspector of Police and escaping from that place to avoid arrest and assaulting a colleague Police Constable and thus getting involved in an attempt to murder and therefore, he was proceeded departmentally and simultaneously, Criminal Cases were also filed but the charges laid before the Criminal Courts were not proved, since the prosecution witnesses turned hostile.

10. In the departmental proceedings, four witnesses had deposed consistently against the delinquent. Therefore, the Enquiry Officer found the petitioner guilty and accepting such findings of the Enquiry Officer, the Disciplinary Authority viz, the Superintendent of Police, Dindigul District, imposed the punishment. The Revisional Authority disagreed with the petition filed by the delinquent, requesting to cancel the punishment imposed on him. The Director General of Police, Tamil Nadu, Chennai had found that the delinquent had not preferred any appeal against the punishment. However, in the criminal cases, the appellant was honorably acquitted as the prosecution has not proved the charges framed against the appellant/writ petitioner, since the witnesses had turned hostile. It is needless to say that in the departmental proceedings charges need not be proved beyond reasonable doubt, it is enough to establish preponderance of probabilities.

11. Further, the decision relied on by the learned counsel for the appellant in the case cited supra, is solely based on records in respect of disproportionate assets and wherein, explanation was submitted and the Court accepted the explanation. But, whereas, in the criminal cases mentioned in this case, the witnesses had turned hostile and the prosecution has not proved the charges framed against the appellant/writ petitioner beyond reasonable doubt and therefore, the appellant/writ petitioner was acquitted from the charges. Therefore, the facts and circumstances of the case, referred to above, will not be applicable to the case on hand.

12. Therefore, for the above reasons, we are of the view that the learned Single Judge has considered all the aspects in a ~~proper manner~~ and dismissed the writ petition filed by the appellant/writ petitioner and there is no reason to interfere with the findings of the learned Single Judge and the Writ Appeal



fails, accordingly, the same is dismissed. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-II)

/True copy/

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Sub Assistant Registrar

To

1. The Director General of Police,
O/o The Director General of Police,
Chennai - 600 004.

2. The Deputy Inspector of Police,
Dindigul Range, Dindigul.

3. The Superintendent of Police,
Dindigul District, Dindigul.

4. Ruthrasekaran
Deputy Superintendent of Police/
Enquiry Officer,
Vedasanthur Sub Division Office,
Dindigul District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate, SR No. 60300.

ARUL/DSK

PSM/KP/SAR1/27.06.2017/5P/6C

ORDER MADE IN
Writ Appeal (MD) No.519 of 2017
and
CMP (MD) No.4468 of 2017
14.06.2017