

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.116 of 2014

Dinesh Shah

.... Appellant

-vs-

1.The Deputy Inspector General of Police,
Kancheepuram Range,
Kancheepuram.

2.The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

.... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P No.23822 of 2005 dated 16.07.2013.

Prayer in W.P.No.23822 of 2005:

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus, to call for the records in pursuant to the order of compulsory retirement passed by the second respondent in C.No.J2/1613/05 D.O.No.121/05 dated 5.2.2005 as well as the earlier order passed by the first respondent in C.No.B2/AP/129 dated 16.3.93 and quash the same directing the respondent to reinstate the petitioner with all back wages and other attendant monetary benefits.

For Appellant : Mr.K.Venkatramani
Senior Counsel
for Mr.M.Muthappan

For Respondents: Mr.V.Anandhamoorthy
Addl.Govt.Pleader

J U D G M E N T

[Judgment of the Court was delivered by
K.K. SASIDHARAN,J.]

The appellant fabricated the records to make it appear as if his colleague, another Police Constable was on guard duty on 4 May 1991 with a view to help him to overcome the criminal proceedings for murder. The disciplinary authority after framing charge for his conviction by the Trial Court for giving false evidence imposed the punishment of compulsory retirement from service. The related writ petition was dismissed by the learned single Judge. The order is under challenge at the instance of the appellant.

2. The appellant was working as a Police Constable. He was given guard duty along with Head Constable -915 and Constable - PC 842 to guard the Tamil Nadu Electricity Board office at Pennalur. The Constable- PC 842 after recording that he is on duty left the place and committed murder. The appellant knowing fully well that the Constable left the place and came back subsequently made records to make it appear as if he was on duty throughout. The disciplinary authority initiated disciplinary proceedings taking into account the serious misconduct. The disciplinary authority ultimately imposed the punishment of reduction in time scale of pay by two stages for a period of two years with cumulative effect. The order has become final.

3. The appellant was convicted by the Criminal Court for giving false evidence. He was sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1000/-. In the related appeal, the sentence was modified. The Superintendent of Police, Kancheepuram, initiated fresh disciplinary proceedings on account of the conviction of the appellant by the Criminal Court. The disciplinary authority after conducting enquiry imposed the punishment of compulsory retirement from service. The said order was unsuccessfully challenged before the Writ Court.,

4. The learned Senior Counsel for the appellant contended that the authorities have already punished the appellant for the very same misconduct and as such, the subsequent punishment would amount to double jeopardy. The learned Senior Counsel contended that the appellant had not involved in the alleged misconduct. The Constable - PC 842 left the place without the knowledge of the appellant and as such, it cannot be said that he aided the accused Constable.

5. There is no dispute that the appellant was punished by the Criminal Court for giving false evidence. The appellant tried to manipulate the records to help his colleague, who had involved in a serious offence of murder. The appellant not only fabricated the records but also tendered evidence before the Criminal Court to the effect that the accused Constable, who had involved in a criminal case was all along present in the sub-station and he was on duty. The Trial Court found that the evidence was false and as such, the appellant was punished for giving false evidence.

6. The earlier punishment was on account of the disciplinary proceedings initiated taking into account the fabrication of records. The subsequent punishment was on account of the sentence imposed by the Criminal Court. The appellant was expected to assist the Police to arrest the accused. The Police Officer, who was expected to assist the administration of criminal justice tendered false evidence with a view to help his colleague. Such Police Constables have no place in a disciplined force. The disciplinary authority rightly imposed the punishment of compulsory retirement. The learned single Judge considered this aspect and the writ petition was rightly dismissed. We do not find any reason to take a different view in the matter.

7. In the upshot, we dismiss the intra court appeal. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Deputy Inspector General of Police,
Kancheepuram Range, Kancheepuram.

2.The Superintendent of Police,
Kancheepuram District, Kancheepuram.

+1cc to Mr.M.Muthappan, Advocate Sr.39772

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