

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.04.2018**

CORAM:

THE HON'BLE MR.JUSTICE **K.K.SASIDHARAN**
AND
THE HON'BLE MR.JUSTICE **R.SUBRAMANIAN**

W.A.No.180 of 2015 and
M.P.No.1 of 2015

1.Secretary to Government
Home Department,
Fort St.George, Chennai - 9.

2.Deputy Inspector General of Police,
Trichy Range, Trichy.

...Appellants

Vs

J.S.Sardar Manzur

...Respondent

Prayer:- Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed by this Court in W.P.No.8556 of 2009 dated 27.11.2013.

For Appellants : Mr.V.Anandhamohan
Addl.Govt.Pleader

For Respondent : Mr.G.Bala

J U D G M E N T

(Judgment of the Court was delivered by
K.K.SASIDHARAN, J.)

This intra court appeal is directed against the order dated 27
November 2013 in W.P.No.8556 of 2009, whereby and where under,

the learned single Judge modified the punishment imposed by the disciplinary authority and confirmed by the Appellate and revisional authorities, notwithstanding the fact that the writ petition was filed only after the termination of the relationship between the employer and employee.

2. While the respondent was working as Inspector of Police attached to the Lalapet Police Station, six persons died on account of consuming illicit liquor. The disciplinary authority therefore initiated disciplinary proceedings against the respondent. The disciplinary authority after conducting enquiry imposed the punishment of stoppage of increment for a period of two years with cumulative effect. The said order dated 21 May 2002 was confirmed by the Appellate Authority by order dated 13 May 2003. The related review petition was rejected by order dated 6 January 2005. The respondent, on attaining the age of superannuation retired from service on 31 May 2007.

3. The respondent long after the punishment imposed by the disciplinary authority filed a writ petition in W.P.No.8556 of 2009 challenging the order imposing the punishment. The learned single Judge took into account the fact that under similar circumstances a

lenient view was taken by the Government against another Police officer, and modified the punishment into one of stoppage of increment for one year without cumulative effect. The said order is under challenge at the instance of the State.

4. We have heard the learned Additional Government Pleader on behalf of the State. We have also heard the learned counsel for the respondent.

5. The only question that arises for consideration is as to whether the learned single Judge was correct in entertaining the writ petition filed by the respondent after termination of the relationship between the employer and the employee.

6. There is no dispute that pursuant to the disciplinary proceedings initiated by the disciplinary authority, the respondent was imposed with the punishment of stoppage of increment for a period of two years with cumulative effect. The said order was unsuccessfully challenged before the Appellate Authority. The order dismissing the appeal dated 13 May 2003 was challenged before the Reviewing Authority. The said authority rejected the review petition by order

dated 6 January 2005. The order has therefore become final. It is a matter of record that the appellant on attaining the age of superannuation retired from service on 31 May 2007.

7. There was no employer and employee relationship between the appellant and the Police Department as on the date on which the writ petition in W.P.No.8556 of 2009 was filed by the respondent. The respondent ought to have challenged the punishment imposed by the disciplinary authority during the currency of his service . There is no question of permitting the respondent to challenge the order which was passed during the currency of his service after a period of four years and more particularly after the termination of the relationship between the employer and employee.

8. The learned single Judge allowed the writ petition primarily on the ground that punishment would affect the pension payable to the respondent. However, while making such observation, the learned single Judge failed to consider the fact that pension has already been fixed after paying the retirement benefits to the respondent. We are therefore of the view that the writ petition ought to have been dismissed on the ground of delay and laches.

9. The order dated 27 November 2013 is set aside. The writ petition in W.P.No.8556 of 2009 is dismissed.

10. The intra court appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(K.K.SASIDHARAN,J.) (R.SUBRAMANIAN,J.)

9 April 2018

Index : Yes/No

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**K.K.SASIDHARAN, J.
AND
R.SUBRAMANIAN, J.**

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