

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.9.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.2024 of 2018
and
C.M.P.No.15969 of 2018

- 1 THE DEPUTY INSPECTOR OF POLICE,
THANJAVUR RANGE, THANJAVUR.
- 2 THE DIRECTOR GENERAL OF POLICE,
CHENNAI.
- 3 THE SECRETARY TO THE GOVERNMENT,
HOME DEPARTMENT FORT ST.GEORGE
CHENNAI 9. ..Appellants

Vs

P.RAJAGOPAL ..Respondent

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 16.6.2014 passed in W.P.No.4264 of 2006 on the file of this court. Writ Petition having been transferred from the file of Tamil Nadu Administrative Tribunal by way of O.A 2301/2002 to call for the records of the respondents 1 to 3 in connection with the impugned order passed by then in C.No.10892/D1/97, RO. No.174/97 dated 18/09/1997, C.No.11422/AP IV(1) /2005 dated 12/08/2006 and G.O (2D) No.538, Home (Pol.IV) Department dated 16/08/2007 respectively and quash the same and direct the respondents to reinstate the petitioner into service and grant him all consequential service and monetary benefits.

For appellants : Mr.R.Govindasamy,
Special Government Pleader

JUDGMENT

(Judgment of the court was made by K.KALYANASUNDARAM, J.)

Heard the learned Special Government Pleader appearing for the appellants.

2. The State has preferred this appeal against the order of the learned Single Judge dated 16.6.2014 passed in W.P.No.4264 of 2006.

3. It seems that on a private complaint filed against the respondent-Grade II Police Constable, he was convicted by this court in Criminal Appeal No.927 of 1989 and based on such conviction the respondent was dismissed from service on 18.9.1997. The order of dismissal was challenged before the Tamil Nadu Administrative Tribunal in O.A.No.2301 of 2007 and the said O.A. was subsequently to this court and re-numbered as W.P.No.4264 of 2006.

4. The learned Single Judge, by following various decisions of the Apex Court on the issue and also applying the doctrine of proportionality, modified the punishment of dismissal from service into one of compulsory retirement.

5. The order is assailed in this appeal on the ground that the offence committed by the respondent is grave in nature and accordingly sought to contend that he should be dismissed from service.

6. Having heard the learned counsel Special Government Pleader for the appellant and perused the order passed by the learned Single Judge, we find that the initially, the respondent was acquitted in the criminal proceedings, however, on appeal, he was convicted for the offences punishable under sections 343 and 323 IPC and sentenced to undergo rigorous imprisonment for 18 months and six months respectively and to pay a fine of Rs.7000/-.

7. It is also seen that the learned Single Judge, having found that as per the Police Standing Orders 66 (Old No.59(1) and Rule 3(C)(i)(1) of the Tamil Nadu Subordinate Police Officers (D&A) Rule, in case where a police officer is convicted

and sentenced to undergo imprisonment for an offence not involving moral turpitude, he may be compulsorily retired from service by the competent authority, and also considering the minor nature of offence, rightly modified the punishment of dismissal from service into one of compulsory retirement.

8. We see no reason to interfere with the order passed by the learned Single Judge. Accordingly, the writ appeal is dismissed. No costs. The connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssk.

To:

- 1 THE DEPUTY INSPECTOR OF POLICE,
THANJAVUR RANGE, THANJAVUR.
- 2 THE DIRECTOR GENERAL OF POLICE,
CHENNAI.
- 3 THE SECRETARY TO THE GOVERNMENT
HOME DEPARTMENT FORT ST.GEORGE
CHENNAI 9.

+1cc to Mr.M.Muthappan, Advocate, S.R.No.68682
+1cc to the Government Pleader, S.R.No.67820

W.A.No.2024 of 2018

VD(CO)

rrs 04/12/2018

WEB COPY