

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	19/09/2018
Delivered on	11/10/2018

CORAM

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

W.A.No.2028 of 2018

R.Paramasivam

... Appellant

vs.

1.The Deputy Inspector General of Police,
Armed Police,
Chennai - 10.

2.The Inspector General of Police,
Armed Police,
Trichy.

3.The Director General of Police,
Tamil Nadu, Chennai - 4.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 27.01.2014 passed by a learned Single Judge of this Court in W.P.No.20502 of 2005.

WP.NO.20502/2005:Petition filed under Article 226 of the constitution of India praying for the issue of a writ of certiorarified mandamus to call for the records pertaining to the order of the first respondent herein passed in his P.R.15/2002 dated 17.1.2004 and the order of the second respondent herein passed in his Rc.No.Estt.1(2)/5776/IG/2004 dated 4.6.2004 and the order of third respondent passed in his Rc.No.P.R. No. III(1)/ 186634/2004 dated 23.10.2004 and quash the same and direct the respondents herein to reinstate the petitioner in service with all consequential monetary and service benefits.

For Appellant : Mr.K.Venkataramani, Senior Counsel
for Mr.A.T.Jayaraman

For Respondents : Mr.P.S.Sivashanmuga Sundaram
Special Government Pleader

J U D G M E N T

K.KALYANASUNDARAM, J.

This Writ Appeal is directed against the order of the learned Single Judge dated 27.01.2014 passed in W.P.No.20502 of 2005.

2. The appellant, while serving as Havildar in Tamil Nadu Special Police, V Battalion, was served with a charge memo dated 09.11.2002. The charge is that the appellant along with Sub Inspector of Police and other three Constables, posing themselves as CBI Officials, committed dacoity on 13.05.2002 and thereby brought disrepute to the Police Force. Pursuant to the charge memo, an enquiry was conducted and the appellant was imposed a punishment of dismissal from service. The appeal preferred against the order and the further revision came to be dismissed. The learned Single Judge confirmed the order of dismissal by observing that the evidence cannot be re-appreciated as an appellate authority.

3. Mr.R.Venkataramani, learned Senior Counsel for the appellant would argue that a criminal case was registered based on the complaint of one Mr.Srinivasan, but subsequently, he is added as A-1 in the Final Report and the name of the appellant does not find place in the complaint and all the witnesses cited in the charge sheet were not examined before the Enquiry Officer.

4. Per contra, Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader would contend that the delinquent was provided with ample opportunity in the enquiry and based on the findings of the Enquiry Officer, the appellant was dismissed from service. It is further submitted that on behalf of the Department, two witnesses gave evidence, but they were not cross-examined by the appellant and hence, it is not open to contend that there is no evidence in this case.

5. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

6. It is seen that two witnesses were examined to prove the charge against the appellant and it is settled law all the witnesses cited in the charge sheet need not be examined during the enquiry. The learned Single Judge in a well considered order held that the Departmental Proceedings and the Criminal Proceedings are totally different and in the Departmental Proceedings, the Department is required to establish the guilt on some evidence, but in the criminal proceedings, the

prosecution has to establish the guilt beyond reasonable doubt.

7. In the light of the above fact, we find no reason to interfere with the finding of the learned Single Judge. The appeal fails and the same is dismissed. There is no order as to costs.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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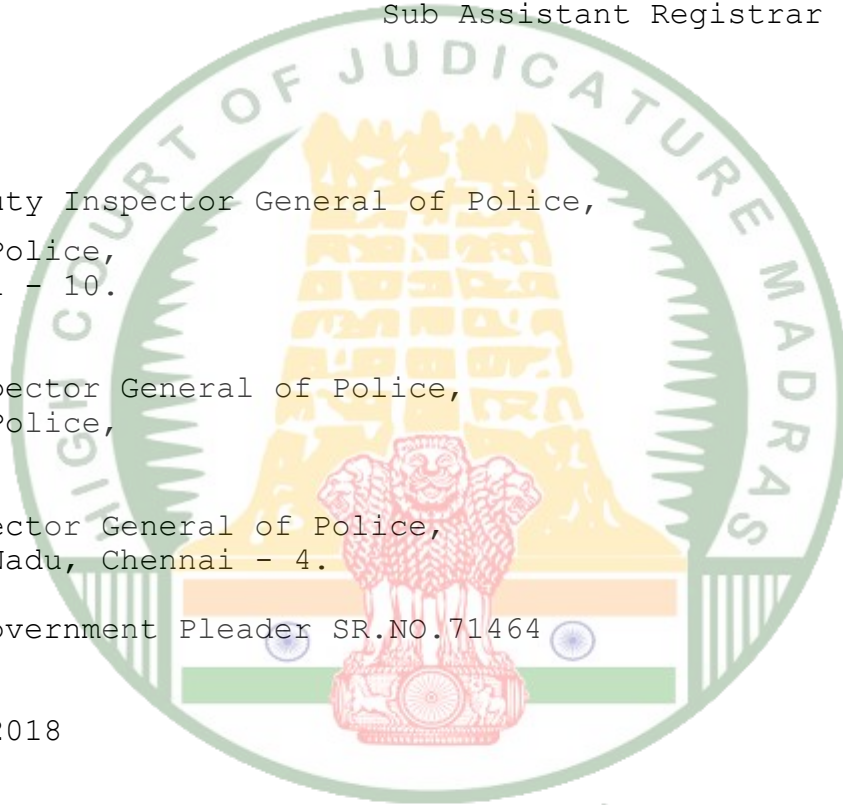
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VD(CO)
sm:30.10.2018



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