

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Appeal No.2411 of 2019

1. K.Raja (died)
2. Yogambal
3. Minor Shankar
4. Minor Sowmiya
(Minors represented by natural guardian
and mother Yogambal) Appellants/Petioners

Vs

1. The Superintendent of Police,
Nagapattinam District, Nagapattinam.
2. The Deputy Inspector General of Police,
Thanjavur Range, Thanjavur.
.... Respondents/Respondents

APPEAL filed under Clause 15 of the Letters Patent to set aside the order dated 06.12.2017 in W.P.No.5407 of 2010 on the file of this Court.

Prayer in WP.No. 5704 of 2010: Petition filed under Article 226 of the Constitution of India, Call for the records of the respondent 1 and 2 in connection with impugned orders passed by them in PR16/2009 u/r.3(b) dated 12.12.2009 and C.No.B2/APPEAL.10/2010 dated 16.2.2010 respectively and quash the same.

For Appellant : Mr.K.Venkataramani, S.C.
For M/s.M.Muthappan
Mr.Alagu Goutham

For Respondents: Mrs.A.Sri Jayanthi, Spl.G.P.

J U D G M E N T

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

The predecessor-in-interest of the respondents, by name, Thiru.K.Raja was employed as Head Constable in the Tamil Nadu Police. He was charge sheeted for certain acts of misconduct. The Disciplinary Authority after conducting enquiry dismissed him from service.

2. The punishment imposed by the Disciplinary Authority was challenged in W.P.No.5704 of 2010. During the currency of the Writ Petition, the employee died and thereafter his legal representatives were impleaded as petitioner Nos.2 to 4, who are appellants 2 to 4 herein. The learned single Judge remanded the matter to the disciplinary authority to modify the punishment into one of compulsory retirement. The said order is under challenge at the instance of the unsuccessful Writ Petitioners.

3. When this appeal came up for hearing on 26.07.2019, we have passed the following order taking into account the fact that only the legal heirs are now before this Court:

'The deceased first petitioner was charge sheeted on account of certain misconduct. He was ultimately punished. The punishment of removal from service was imposed by the Disciplinary Authority.

2. During the currency of the Writ Petition filed by the delinquent, he died and the legal representatives were brought on record.

3. The learned single Judge disposed of the Writ Petition by order dated 06.12.2017 directing the respondents herein to revisit the punishment. The said order is under challenge in this appeal.

4. The State has not filed any appeal challenging the order dated 06.12.2017 in W.P.No.5704 of 2010.

5. We direct the respondents to take a decision in the matter taking into account the spirit of the order dated 06.12.2017. The respondents should also take note of the fact that the delinquent is no more and the present appeal is only by the legal representatives of the delinquent to obtain the benefits of his past service.

6. Post on 19.08.2019.'

4. When the appeal is taken up for hearing today, the

learned Special Government Pleader produced a copy of the proceedings issued by the Superintendent of Police, Nagapattinam dated 08.08.2019 modifying the punishment imposed on the employee into one of black mark, meaning thereby, the punishment of dismissal is converted into one of recording black mark.

5. In view of the modified punishment, the appellants are entitled to the retirement benefits due to Thiru K.Raja.

6. We direct the respondents to compute the retirement benefits due to the legal representatives on account of the death of Thiru. K.Raja and pay the same as expeditiously as possible and in any case on or before 30.09.2019. Necessary orders sanctioning the pension should also be passed simultaneously.

7. The intra Court appeal is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

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To

1. The Superintendent of Police,
Nagapattinam District, Nagapattinam.
2. The Deputy Inspector General of Police,
Thanjavur Range, Thanjavur.

+1cc to Mr.M.Muthappan, Advocate, S.R.No. 70590
+1cc to the Government Pleader, S.R.No. 70853

Writ Appeal No.2411 of 2019

SJ(CO)
GN(30/08/2019)