

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2019

CORAM

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR. JUSTICE P.D.AUDIKESAVALU

W.A. No. 2224 of 2018
and
C.M.P. No. 17613 of 2018

1. The Director General of Police
Chennai - 600 004.

2. The Commissioner of Police
City Police Office
Coimbatore City
Coimbatore - 641 018.

... Appellants

Vs.

S.H.Alimudeen

... Respondent

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent, praying to set aside the order dated 20.03.2018 made in W.P. No. 21332 of 2009.

For Appellants : Mrs.A.Sri Jayanthi, Special Govt. Pleader

For Respondent : Mr.P.I.Thirumoorthy

J U D G M E N T

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

This intra-court appeal challenges the order passed by the learned

Single Judge dated 20.03.2018 in W.P. No. 21332 of 2009 modifying the

punishment imposed by the disciplinary authority on the ground that the punishment was disproportionate to the misconduct committed by respondent.

2. The factual matrix indicates that the respondent was charge sheeted along with another police constable and an Inspector of Police on allegation that they have fabricated the records in connection with the complaint given by the complainant for the purpose of claiming the proceeds of an old motor vehicle, which was the subject matter of the initial complaint.

3. The disciplinary authority, pursuant to the charge memo, conducted enquiry by appointing an enquiry officer. The Inspector of Police was awarded with the punishment of dismissal from service. The respondent was awarded with the punishment of postponement of increment for a period of three years with cumulative effect. The other police constable was also awarded with the punishment of postponement of increment for a period of three years with cumulative effect. There was no appeal preferred by the respondent challenging the order passed by the disciplinary authority.

4. The respondent filed a mercy petition before the Director General of Police. The mercy petition was dismissed. The said order was challenged before the Writ Court in W.P. No. 21332 of 2009. The learned Single Judge taking into account the fact that the respondent was earlier given 46 rewards for his meritorious service and that he was also awarded the Chief Minister's Medal, modified punishment into one of postponement of increment for a period of three years without cumulative effect. It is the said order, which is impugned in this intra-court appeal.

5. We have heard the learned Special Government Pleader on behalf of the appellants and the learned counsel for the respondent.

6. The documents available on record indicates that disciplinary proceedings were initiated against the respondent along with another Police Constable and the Inspector of Police. The disciplinary authority imposed the punishment of dismissal from service on the Inspector of Police. The Inspector of Police filed an appeal against the said order. The appellate authority was pleased to modify the punishment into one of postponement of increment for a period of 2 years with cumulative

effect. Insofar as the Respondent is concerned, he was awarded with the punishment of postponement of increment for a period of 3 years with cumulative effect.

7. The major charges were only against the Inspector of Police. It was only after taking into account the evidence collected by the Enquiry Officer against the Inspector of Police, the major penalty was imposed on him. The respondent and another Police Constable were given the punishment of postponement of increment for a period of 3 years, which is not proportionate to the misconduct.

8. It is true that the learned Single Judge has not given reasons as to why the Court has come to a conclusion that the punishment is disproportionate. However, on a verification of the records, we found that even the delinquent who had actually committed the misconduct in question was given only a minor punishment by the appellate authority, even though major penalty was imposed by the disciplinary authority.

9. The Commissioner of Police in his counter affidavit has referred to the string of medals awarded given to the respondent. According to

the Disciplinary Authority, the respondent was not involved in any act of misconduct previously and the instant incident is the only misconduct in which proceedings were taken against him. In view of all these background facts, we are of the considered view that the learned Single Judge was correct in modifying the punishment imposed by the Disciplinary Authority. We therefore confirm the order passed by the learned Single Judge.

10. In the upshot, we dismiss the intra-court appeal filed by the State. Consequently, connected miscellaneous petition is closed. No costs.

[K.K.SASIDHARAN, J.] [P.D.AUDIKEVALU, J.]
04.02.2019

may

Index : Yes/No

Internet: Yes/No

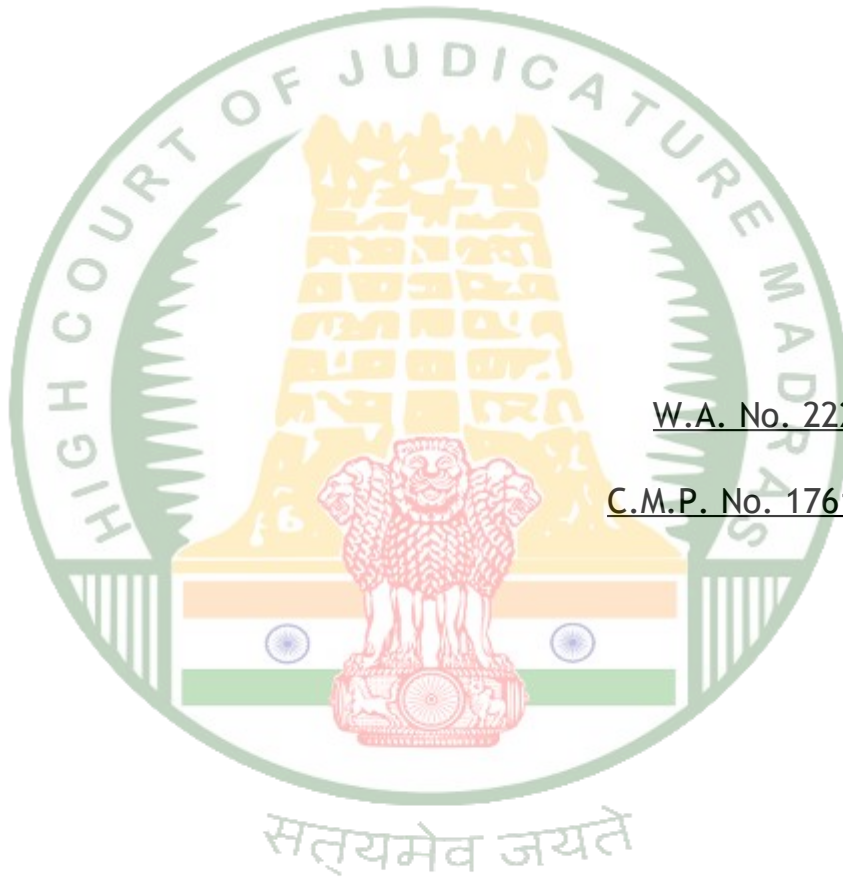
Speaking / Non-speaking order

To

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