



WEB COPY

W.A.[MD]No.1030 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A.[MD]No.1030 of 2019

and

C.M.P.[MD]No.9413 of 2019

- 1.The State of Tamil Nadu,
Through its Home Secretary,
Secretariat,
Chennai - 600 009.
- 2.The State of Tamil Nadu,
Through its Additional Chief Secretary,
Home (Police IV) Department,
Secretariat,
Chennai - 600 009.
- 3.The Director General of Police,
State of Tamil Nadu,
Beach Road,
Chennai - 600 009.
- 4.The Additional Director General of Police,
(Law and Order),
State of Tamil Nadu,
Beach Road, Chennai - 600 009.
- 5.The Deputy Inspector General of Police,
Thanjavur Range,
Thanjavur.
- 6.The Superintendent of Police,
Thanjavur District,
Thanjavur.

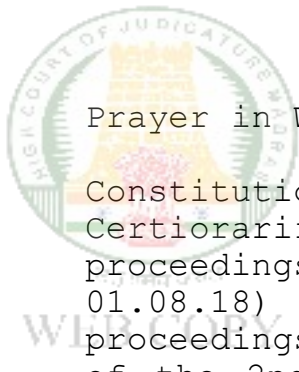
Vs.

: Appellants

S.Karthikeyan

: Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order made in W.P.[MD]No.17716 of 2018 dated 31.01.2019 on the file of this Court and allow this Writ Appeal.



Prayer in WP(MD). 17716/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus calling for the records relating to the proceedings of the Impugned GO(D)No.879 dated 26.07.18 (served on 01.08.18) on the file of the 2nd Respondent confirming the proceedings in Impugned G.O.(D)No.259 dated 16.03.2018 on the file of the 2nd Respondent and the consequential order in R.C.No.Con.2 (1)/80547/2014 dated 01.09.2016 on the file of 4th Respondent and quash the same and relieve the Petitioner from all charges and to direct the Respondents reinstate the petitioner with back wages.

For Appellants : Mr.A.K.Baskara Pandian
Special Government Pleader
For Respondent : Mr.Prabhu Rajadurai

JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

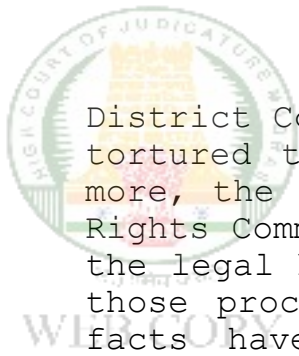
By consent of both parties, the Writ Appeal is taken up for final disposal at the admission stage itself.

2.We have heard Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the appellants and Mr.Prabhu Rajadurai, learned Counsel appearing for the respondent / writ petitioner.

3.This appeal by the Government is directed against the order in W.P.[MD]No.17716 of 2018 dated 31.012019. The Writ Petition was filed by the respondent herein to quash the order of punishment imposed by the Government, compulsorily retiring the writ petitioner from service on the ground that the charges framed against the writ petitioner has been proved. The Government passed the order by exercising *Suo Motu* power on the ground that the punishment imposed by the disciplinary authority, later modified by the first appellate authority was in commensurate with the proven charges.

4.The learned Single Bench had elaborately considered the issue and specifically noted that in the departmental proceedings, the prosecution witnesses did not support the allegations in the charge. This is admitted by the disciplinary authority in his order dated 29.12.2015. However, he chose to rely upon the statement given by certain persons before the Revenue Divisional Officer.

5.In our considered view, such statement could not have been placed reliance because subsequent to the statement, departmental disciplinary proceedings were initiated against the writ petitioner, charge memo was issued, prosecution witnesses were examined who did not support the case of the prosecution. That apart, there is no clear finding rendered by the Revenue Divisional Officer or the



District Collector as to the allegation that the writ petitioner had tortured the deceased during the course of investigation. Further more, the reliance placed on the order passed by the National Human Rights Commission directing the financial relief of Rs.5,00,000/- to the legal heirs of the deceased was passed as a special case and in those proceedings, the writ petitioner was not a party. All these facts have been noted by the learned Single Judge and in an elaborate and well reasoned order, the writ petition has been allowed. We find no good ground to interfere with the order passed in the writ petition.

6. Accordingly, the Writ Appeal fails. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-III)

/TRUE COPY/

Sub Assistant Registrar

MR

To

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-92425[F] dated 17/10/2019)

+1 CC to M/s.SPL GP (SR-92507[F] dated 17/10/2019)

Judgment made in
W.A. [MD]No.1030 of 2019
Dated: 16.10.2019

JM/25.10.2019/3P/3C