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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.27923 of 2008

V.Thiyagu ...Petitioner

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,
Dr. Radhakrishnan Salai,
Mylapore, Chennai 4. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari calling for the records of the respondents 1 and 2 in connection with the impugned orders passed by them in PR.16/2002 dated 14.01.2004 and RC No.C2/5813/IO/2004 dated 25.09.2004 and quash the same.

For Petitioner : Mr.Venkataramani
Senior Counsel
for Mr.M.Muthuappan

For Respondents : Mr.C.Selvaraj
Government Advocate

ORDER

The petitioner entered the service of the Police Force as a direct recruit, Grade-II Police Constable on 31.10.1997. He, along with other co-accused was served with a charge memo bearing No.e/f/vz;/o4-j/g/100-02 dated 16.10.2002 alleging reprehensible conduct by him as well as four others impersonating officers of the Central Bureau of Investigation

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(CBI) and committing dacoity on 13.05.2002 at Sri Chakra Apartment causing disrepute to the entirety of the Police Force.

2. The two other co-accused, R.Paramasivam and N.Gunasekaran, have approached this Court in W.P.Nos.20502 of 2005 and 20080 of 2004 respectively in regard to the same criminal case.

3. The charge memo culminated in order of dismissal of service dated 14.01.2004 that refers to sufficient evidences available on record to clinch criminal misconduct of conniving with the delinquents, impersonating CBI Officials and committing dacoity of cash, gold and other items.

4. The order of dismissal came to be appealed against and by order dated 25.09.2004, the appeal was dismissed confirming the punishment imposed, after due consideration of the grounds raised by the petitioner. There are concurrent findings of facts as against the petitioner in both the orders impugned.

5. The present writ petition has been filed only in 2008 and is hit by laches. This is sufficient to warrant a dismissal of the writ petition. That apart, in the case of the co-accused, this Court, vide two separate orders passed by two Benches of this Court dated 27.01.2014 in the case of R.Paramasivam and 17.07.2018 in the case of N.Gunasekaran, dismissed the writ petitions finding no case whatsoever made by the petitioners. The aforesaid conclusion will apply on all fours to the present case. Moreover, the orders of the Division Bench have attained finality.

6. The decision in the case of R.Paramasivam was carried in appeal and a Division Bench of this Court in W.A.No.2028 of 2018 dated 11.10.2018 confirmed the order of the learned Single Judge, finding no reason to interfere.

7. Some submissions are made on the merits of the matter, but, I am not inclined to re-appreciate the evidence in the matter, in a writ petition, and that too one filed so belatedly.

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8. As far as the opportunity of cross-examination that is stated to have been denied to the petitioner, same submission has been made by the co-accused as well and the Division Bench has rejected the same referring to the settled position that not all witnesses cited in the charge-sheet must be subject to examination during enquiry. In any event, the impugned orders refer to in-depth enquiry that was carried out to confirm the charges as against the petitioner. The criminal case is stated to be pending as on date. However, the pendency or otherwise of the criminal case would not impact the decision in regard to the disciplinary proceedings.

9. Thus, both on the ground of laches and consistency in approach qua co-accused and since no case is made out warranting interference with the impugned orders, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

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,
Dr. Radhakrishnan Salai,
Mylapore, Chennai 4.

+1cc to Mr.Muthappan, Advocate, S.R.No.47925

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PM(CO)
SB(02/11/2021)

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