



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	28.10.2021
DELIVERED ON	24.11.2021

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN
AND

THE HONOURABLE MR. JUSTICE R.VIJAYAKUMAR

W.A.No.2672 of 2021

A.Selvamani

...Appellant/Petitioner

vs.

1. The Deputy Inspector General of Police,
Villupuram Range,
Villupuram.

2. The Superintendent of Police,
Villupuram

...Respondents/Respondents

Prayer: Writ Appeal filed under clause 15 of the Letter Patent,
against the order dated 09.12.2020 made in W.P.No.8579 of 2007.

Prayer in W.P. 8759/2007:

Writ Petition filed under Article 226 of the Constitution
of India, praying for a Certiorarified Mandamus, to call for the
records of the second Respondent relating to P.R. No. 35/2001,
DO422/2002, G.M.O.PR2/PR35/2001 dated 08.04.2002 quash the same
and issue directions to the Respondents herein to reinstate the
Petitioner in service with all consequential benefits.

For Appellant	:	Mr.S.Raveekumar
For Respondents	:	Mr.K.V.Sajeev kumar State Government counsel

JUDGMENT

(Judgment of the Court was delivered by R.VIJAYAKUMAR, J.)

The writ petitioner while he was working as a Police
Constable Grade-I was placed under suspension on 20.08.2001 on
the ground of pendency of the criminal case. Later a charge



memo was issued to him on 01.10.2001. An Enquiry Officer was appointed to conduct enquiry and he submitted his Enquiry Report on 20.08.2001, the said Enquiry Report was served upon the writ petitioner and he was called upon to submit his further explanation. The writ petitioner had submitted his explanation in March 2002. The writ petitioner was dismissed from the service on 08.04.2002.

2.The writ petitioner challenged this order of dismissal from the service before the first respondent. The first respondent had also confirmed the order of dismissal. The writ petitioner herein filed O.A.No.2490 of 2002 before the Tamil Nadu Administrative Tribunal. The said application was later transferred to the High Court and numbered as W.P.No.8579 of 2007. The learned Single Judge after hearing both the parties has confirmed the order of dismissal by his order dated 09.12.2020. This order is under challenge in the writ appeal.

3.A charge memo was issued to the petitioner on the ground that he was involved in a criminal case for having trespassed into the camp office of the Deputy Superintendent of Police with a knife in an inebriated mode and threatened the officer with dire consequences and tried to assault him with a knife.

4.The writ petitioner had submitted a reply to the charge memo stating that already a criminal case has been filed on the same set of facts in Crime No.781/2001 on the file of Thirukoilur Police Station and hence, the departmental enquiry may not be proceeded with.

5.The writ petitioner further contended that only due to previous enmity between him and the concerned Inspector of Police, the present charges have been framed. He further contended that he never brought a knife into the camp office nor he threatened or attacked any one inside the office.

6.The Deputy Superintendent of Police was examined as PW1 and during his Chief Examination in the enquiry, he has stated that the writ petitioner had entered the camp office on 19.08.2001 at about 12.00 midnight in a drunken mode and shouted that the Deputy Superintendent of Police is attempting to divide his family. PW1 had further deposed that he had sustained injuries in two fingers of his left hand while attempting to snatch the knife from the delinquent. During his cross examination, nothing has been discredited about the said deposition.



7. One Mr. Pandian was examined as PW4 who was working as Inspector at Thirukoilur Police Station at that point of time in his Chief examination has stated that the delinquent shouted that he will attack with a knife. He further deposed that wound certificate was issued to the Deputy Superintendent of Police for the injuries sustained by him. The delinquent was arrested and sent to the hospital and a certificate of drunkenness was also obtained.

8. One Dr. G. Gopalan was examined as PW5 who deposed that he had issued a wound certificate and the certificate of drunkenness. These depositions in the Chief examinations have not been discredited during cross-examination.

9. The Original Authority as well as the Appellate Authority have confirmed the delinquency of the writ petitioner and imposed the punishment of dismissal from the service.

10. The learned Single Judge after going through all the documents has given a finding that the writ petitioner being in uniformed service, if really has got any grievance, he should have approached through proper channels and he cannot trespass into the office of the Higher Officials at midnight.

11. The learned Single Judge also found that the impugned order of the dismissal is also not a violation of principles of natural justice and dismissed the writ petition. The said order is under challenge in the writ appeal.

12. The learned counsel for the appellant vehemently contended that the petitioner was dismissed from the service on 08.04.2002 and thereafter on 17.07.2003, a criminal case was filed against him rendered in acquittal. He further contended that the criminal Court has given a specific finding that the charges of carrying of knife or the writ petitioner being intoxicated mode have not been proved beyond reasonable doubt. When the charges in the criminal proceedings as well as the departmental proceedings are one and the same. Once the writ petitioner is acquitted of the criminal charges, naturally the order of dismissal should be reversed and he should be reinstated in service.

13. The learned counsel for the appellant further contended that there are many contradictions in the depositions of the witnesses in the departmental enquiry and hence the findings of the Enquiry Officer that the charges are proved is legally not sustainable.

14. The learned counsel for the appellant contended that due to previous enmity between the petitioner and the Inspector of Police, a false criminal case was foisted and the



departmental proceedings were also initiated in order to wreck vengeance as against the petitioner.

15.The learned counsel for the appellant further contended that since the Enquiry Report is based upon the contradictory statement of the witnesses, the writ petitioner should have not been imposed with a highest punishment of dismissal.

16.The learned counsel for the appellant further contended that the acquittal in the criminal case is honorary acquittal and hence the order passed in the departmental proceedings should be set aside and he should be reinstate into the service.

17.The order of dismissal of the writ petitioner is dated 08.04.2002 and only thereafter, the petitioner has been acquitted in C.C.No.167 of 2001 on 17.07.2003. The order of the criminal Court will clearly indicate that the acquittal of the petitioner is not honourable acquittal but the acquittal is based on the facts that prosecution has failed to prove the case beyond reasonable doubt. Hence, the acquittal in the criminal proceedings cannot be cited as a ground to set aside the order of dismissal. That apart, the conviction in criminal proceedings is based upon the strict proof. As far as departmental proceedings are concerned, they are based upon preponderance of probabilities.

18.The Hon'ble Supreme Court in a recent judgment dated 06.10.2021 in Civil Appeal No.6238 of 2021 in the case of Union of India and Others vs. Methu Meda has held as follows:

The expression 'honourable acquittal' has been considered in the case of S. Samuthiram (supra) after considering the judgments of Reserve Bank of India vs.Bhopal Singh Panchal (1994)1 SCC 541, R.P. Kapur (supra), Raghava Rajagopalachari (supra); this Court observed that the standard of proof required for holding a person guilty by a criminal court and enquiry conducted by way of disciplinary proceeding is entirely different. In a criminal case, the onus of establishing guilt of the accused is on the prosecution, until proved beyond reasonable doubt. In case, the prosecution failed to take steps to examine crucial witnesses or the witnesses turned hostile, such acquittal would fall within the purview of giving benefit of doubt and the accused cannot be treated as honourably acquitted by the criminal court. While, in a case of departmental proceedings, the



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guilt may be proved on the basis of preponderance and probabilities, it is thus observed that acquittal giving benefit of doubt would not automatically lead to reinstatement of candidate unless the rules provide so.

19.The Enquiry Report clearly reveals the delinquency of the writ petitioner that he has trespassed into the camp office of the Deputy Superintendent of Police at midnight in an inebriated mode and picked up quarrel with the officers in the station. The petitioner being an employee in uniformed force, he is expected to behave in a more disciplined manner. The charges levelled are serious in nature and these charges have been proved in the departmental proceedings through examination of the witnesses. The petitioner has also been permitted to cross-examine the witnesses. The writ petitioner is not able to point out any procedural lacuna in conducting departmental enquiry.

20.It is settled position of law that this Court cannot reappreciate the evidence in the enquiry proceedings and this Court cannot also act as an Appellate Authority unless the punishment imposed is shockingly disproportionate to the proved delinquency.

21.In the present case, the proved delinquency is much serious in nature, we do not find that the punishment of dismissal from the service is disproportionate to the proved charges as against the petitioner. Hence, we do not find any reason to interfere with the order of the learned Single Judge. The Writ Appeal stands dismissed. No costs.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

pam
To

1. The Deputy Inspector General of Police,
Villupuram Range,
Villupuram.



2. The Superintendent of Police,
Villupuram.

+1 CC to Mr.S.Raveekumar, Advocate sr 60994
+1 CC to The Government Pleader sr 61080.

W.A.No.2672 of 2021

SSV(CO)
SP(16/12/2021)