

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-06-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.390 of 2014

J.Noordeen

...Petitioner

vs.

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

2. Deputy Inspector General of Police,  
Tiruchirappalli Range,  
Trichy.

3. Superintendent of Police,  
District Police Office,  
Trichy.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent herein in his proceedings Rc.No.039398/AP IV(1)/2012 dated 07.12.2012 and the order passed by the second respondent in his proceedings C.No.B1/APP.18/2007 dated 27.06.2007 and the order passed by the third respondent herein in his proceedings P.R.No.141/H2/2006 under Rule 17(b) dated 16.03.2007 and quash the same and direct the respondents herein to reinstate the petitioner into service, together with all consequential service and monetary benefits.

For Petitioner : Ms.A.Haseena Banu

For Respondents : Ms.R.L.Karthika,  
Government Advocate.

O R D E R

The order of punishment dated 16.03.2007 and the appellate order and also the revision order, confirming the order of original punishment, are under challenge in the present writ petition.

2.The writ petitioner joined in the Police Department as Part Time Sweeper on 13.12.1986 and he was made as Full Time Sweeper on 06.09.1991. The service of the writ petitioner was

regularised.

3.The departmental disciplinary proceedings were initiated against the writ petitioner and a charge memorandum under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, was issued. The first charge is that the petitioner remained unauthorisedly absented himself on 03.07.2006 and the second charge is that he has involved in a criminal case in Crime No.572 of 2006 under Section 6(4) of TNSC (RDCS) Order, 1982 read with Section 7(i)(a)(ii) of Essential Commodities Act, 1955.

4.The petitioner was arrested on the ground that the PDS rice meant for the Police Department Personnel had been illegally traced out in the backyard of the petitioner's residence. Thus, the criminal case was registered against the writ petitioner. The criminal trial ended with an order of acquittal as all the witnesses turned hostile.

5.Perusal of the judgment passed by the District Revenue Officer reveals that none of the witnesses have stated even the facts and contrarily, they turned hostile by simply stating that they do not know the accused person at all. Therefore, absolutely there was no adjudication of facts or statements obtained or other details regarding the charges. Thus, the Department has continued the disciplinary proceedings on the ground that the order of acquittal is not a bar for the continuance of the departmental disciplinary proceedings.

6.This Court is of the considered opinion that to convict a person under the Criminal Law, strict proof of evidence is required. However, no such strict proof is required to punish an employee under the Discipline and Appeal Rules. Preponderance of probabilities are enough to punish an employee. Therefore, the procedures to be followed in a criminal case and the departmental disciplinary proceedings are distinct and different.

7.In this context, the Courts are repeatedly held that an order of acquittal is not a ground to exonerate an employee from the departmental disciplinary proceedings. Thus, the Disciplinary Authority is empowered to continue the departmental disciplinary proceedings independently based on the documents and evidences available and if the delinquent is found guilty, then suitable punishment shall be imposed.

8.In the present case, the departmental disciplinary proceedings continued and an Enquiry Officer was appointed, who in turn conducted an enquiry and affording an opportunity to the writ petitioner. The writ petitioner participated in the process of enquiry, defended his case and more-so he cross-examined all

the witnesses examined by the Department. The Enquiry Officer considered the statements of the witnesses and also the cross-examination statements and made a finding that the charges against the writ petitioner are held proved. The report of the Enquiry Officer was accepted by the Disciplinary Authority and the Disciplinary Authority imposed the punishment of removal from service, as the proved charges are grave in nature. The petitioner preferred an appeal and also the revision. Both the appeal and revision, are rejected and thus, the writ petitioner is constrained to move the present writ petition.

9.The learned counsel for the petitioner mainly contended that the criminal case ended with an order of acquittal and therefore, the impugned order of punishment is to be set aside. Once criminal charges are not established against the writ petitioner and the allegations against the departmental disciplinary proceedings are one and the same, then it is to be considered by the Competent Authority for grant of exoneration from the departmental disciplinary proceedings. It is further contended that the allegation of unauthorised absence has not been established and therefore, the impugned order of punishment is liable to be set aside.

10.The learned Government Advocate appearing on behalf of the respondents objected the said contentions raised on behalf of the petitioner by stating that proved charges against the writ petitioner are grave in nature. The writ petitioner participated in the process of enquiry and cross-examined the witnesses and only after affording an opportunity, the Enquiry Officer has gone into the allegations as well as the defence statements and made a finding that the charges against the writ petitioner are held proved. Thus, there is no infirmity in respect of the procedures followed by the Disciplinary Authority and in view of the fact that the proved charges are grave in nature, the Disciplinary Authority imposed the major penalty of dismissal from service.

11. Considering the arguments as advanced, this Court is of the considered opinion that the allegations against the writ petitioner are no doubt serious in nature. While the petitioner was serving in the District Police Office, Tiruchirappalli, he was arrested on 03.07.2006 on the allegation that the Public Distribution Scheme rice meant for police personnel had been found in the backyard of the petitioner's residence. For the said allegation, a criminal case was registered and the petitioner was acquitted on the ground of benefit of doubt and more-so, all the witnesses turned hostile.

12. In view of the fact that the petitioner was acquitted based on the benefit of doubt, the Department has continued the

disciplinary proceedings and conducted an enquiry independently. The enquiry report of the Enquiry Officer reveals that the statements of the witnesses were recorded and the petitioner was permitted to cross-examine the witnesses and the petitioner also done that and considering the statements of the witnesses and the documents, the Enquiry Officer held that the charges are proved. Thus, the procedures as contemplated under the Discipline and Appeal Rules were followed by the Authorities Competent and there is no infirmity regarding the quantum of punishment. The proved charges are grave in nature. The acquittal on the ground of benefit of doubt, cannot be ground to exonerate the writ petitioner from the departmental disciplinary proceedings.

13.The enquiry conducted by the Disciplinary Authority reveals that the charges are proved and therefore, there is no infirmity in respect of the procedures followed by the Authorities. Regarding the proportionality of the punishment, this Court do not find that there is any excessiveness as the charges proved against the writ petitioner, are grave in nature. Thus, this Court is not inclined to interfere with the impugned order of the respondents.

14.Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Director General of Police,  
Chennai - 600 004.
2. The Deputy Inspector General of Police,  
Tiruchirappalli Range,Trichy.
3. The Superintendent of Police,  
District Police Office,Trichy.

+1cc to the State Government Pleader, S.R.No.42321

WP 390 of 2014

PL(CO)

RG(21/07/2022)