



W.A(MD)No.380 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2022

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.A(MD)No.380 of 2022

K.Govindasamy

... Appellant/Petitioner

VS.

1.The Director General of Police,
Mylapore,
Chennai – 600 004.

2.The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.

3.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

4.The Superintendent of Police,
Nagercoil,
Kanyakumari District.

... Respondents/Respondents

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 17.03.2022 passed in W.P(MD)No.16454 of 2015, on the file of this Court.



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For Appellant

: Mr.S.Sivakumar

For Respondents

: Mr.M.Sarangan

Additional Government Pleader

JUDGMENT

[Judgment of the Court was made by D. KRISHNAKUMAR, J.)

Challenging the order, dated 17.03.2022 passed by the learned Single Judge in W.P(MD)No.16454 of 2015, this Writ Appeal has been preferred by the appellant / writ petitioner.

2.The case of the appellant / writ petitioner is that he was recruited as a Police Constable on 01.12.2003. While he was in service, he drove the police van bearing Registration No.TN-72-G-0762 for conveyance of prisoners from Central Prison, Palayamkottai to Judicial Magistrate Court, Valliyoor. When the Van was about to move from four way Highway to the left side service road leading to Valliyoor, a Tanker Lorry moving before the appellant's vehicle on the four way Highway also signaled for left turn and turned to the left side service road leading to Valliyoor, but the Tanker Lorry suddenly changed its direction and turned right and went to the four lane Highway road. In order to avoid hitting the lorry, the appellant turned the



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vehicle to the right and the vehicle climbed up on the right side median and stopped. The remanded prisoner, who was sitting near the window in the van, has sustained simple injury by hitting on the side window. A criminal case has been registered against the appellant in Crime No.313 of 2011, for the offence under Sections 279 and 337 of I.P.C and the case in S.T.C.No. 3475 of 2011 is pending before the Judicial Magistrate Court, Valliyoor. For the aforesaid incident, the appellant was placed under suspension by the third respondent on 21.04.2011 and thereafter, the said order of suspension was revoked on 29.04.2011.

3.It is the further case of the appellant that the third respondent also initiated departmental proceedings and issued a charge memo to the appellant for rash and negligent driving, which caused damage to the vehicle and hurt to one remand prisoner. The appellant has objected to the departmental action on the ground of parallel proceedings on the same set of charges. The third respondent appointed an enquiry officer. Based on the enquiry report, the third respondent vide proceedings in P.R.No.62 of 2011 under Rule 3(b) of TNPSS (D & A) Rules, 1955, dated 11.07.2012, imposed a punishment of "postponement of increment for three years which shall operate to postpone his future increments without any prejudice to the



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criminal case in Court". Challenging the said order, the appellant has preferred an appeal before the second respondent. The second respondent, by order, dated 10.10.2012, rejected the appeal petition, as time barred. Hence, the appellant preferred a review petition before the first respondent. The first respondent vide proceedings in R.Dis.No.226330/AP.2(1)/2012, dated 19.10.2014, modified the punishment as "postponement of increment for one year without cumulative effect" and the consequential orders, dated 09.01.2015 and 09.06.2015 passed by the third respondent. Challenging the same, the appellant has preferred the Writ Petition.

4.After elaborate discussions, the learned Single Judge, by order, dated 17.03.2022, passed the following order:-

a) The respondents are directed to regularize the suspension period as duty period.

b)The respondents are directed to give No Objection Certificate for participating in the direct recruitment of Sub Inspector of Police.

c)As far as the punishment for stoppage of increment for one year without cumulative effect is concerned, the same is not interfered with.

d)As far as the recovery of Rs.2833/- is concerned since the government vehicle are not insured, the petitioner is liable to pay the repair charges and



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therefore the amount of Rs.2833/- shall be recovered in easy installments.

e)As far as the monetary benefits is concerned, the respondents are directed to consider and pass an order for the monetary benefits.

15.With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.”

Challenging the impugned order, dated 17.03.2022, passed by the learned Single Judge, the appellant has filed the present Writ Appeal.

5.The learned counsel appearing for the appellant raised various grounds in the Writ Appeal and prayed for setting aside the impugned order, dated 17.03.2022 passed in the Writ Petition.

6.Heard the learned counsel appearing on either side and perused the materials available on record.

7.On a perusal of the order passed by the first respondent, it is seen that the revisional authority has gone into the merits of the order passed by the original authority. We also perused the order passed by the



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second respondent, who is an Appellate Authority, rejecting the appeal filed by the appellant, as time barred. When the said order has been challenged before the revisional authority, the revisional authority has to pass an order whether the said appeal is barred by limitation or not, but has gone into the merits of the case. Therefore, *prima facie*, the said order passed by the revisional authority which is contrary to the order passed by the Appellate Authority, the revisional authority ought not to have gone into the merits of the case and further, the Writ Court has also considered the other grounds and rejected the claim of the appellant.

8.The Writ Court has issued a direction for regularization of his service during suspension period and for giving 'No Objection Certificate' if any, the appellant can participate for the fresh recruitment for the post of Sub-Inspector and for recovering the amount is concerned. Therefore, the appellant's grievance is only in respect of confirming the punishment order passed by the first respondent. We are of the view that even though the first respondent has not considered the same in a proper perspective, the Writ Court has considered the same on its own merits and passed an order in the Writ Petition. We also perused the impugned order passed by the Writ Court and we are satisfied that a detailed order has been passed in the Writ



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Petition and there is no apparent error and there is no legal means to interfere in the said punishment. Therefore, we are not inclined to interfere with the reasoned order passed by the learned Single Judge. Accordingly, this Writ Appeal is dismissed. No costs.

[D.K.K.,J.] & [R.V.,J.]
08.12.2022

Index : Yes / No
Internet : Yes
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D. KRISHNAKUMAR,J.

and

R.VIJAYAKUMAR,J.

ps

**ORDER MADE IN
W.A(MD)No.380 of 2022**

08.12.2022