

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8410 of 2022

S.Ravi

... Petitioner

Vs.

1.The Additional Chief Secretary Home Department,
Home (Police XI) Department Secretariat,
Chennai.

2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai-4.

3.The Deputy Inspector General of Police,
Madurai Range,
Madurai.

4.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to to call for the records on the file of the 4th respondent in connection with the impugned order of punishment issued in his proceedings in Tha.pa.No.97/2015 Rule 3 (b) dated 03.06.2017 and consequential impugned order of modification passed by the

3rd respondent in his proceedings in Se.No. A4/7968/Ap/2017 dated 13.02.2018 and consequential rejection of appeal by the 1st and 2nd Respondent in their impugned proceedings in RC.No.096163/AP.2/3/2018 dated 27.08.2018 and G.O.(D) No. 1207 Home (Police XI) Department dated 14.10.2019 respectively and quash on as illegal and arbitrary and consequently directing the 4th respondent to provide to all attendant and monitory benefits within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.A.K.Manikkam
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2. The writ petitioner joined the police department as Grade-II Constable on 01.03.2008. He became a Grade-I Police Constable on 27.04.2020. The petitioner was involved in a case of fatal accident on 03.03.2015. He was riding his two wheeler and his vehicle dashed against one Karuppaiya leading to his death. In that regard, Crime No.43 of 2015 was registered on the file of the Krishnankovil Police Station for the offences under Sections 279 and 304A of IPC. In view of the involvement of the writ petitioner in the aforesaid criminal case, charge memo was issued on 14.09.2015. The petitioner offered his explanation in response thereto. Vide proceedings dated 20.10.2015,

enquiry officer was appointed. The enquiry report found the petitioner guilty of the charge. After issuing show cause notice to the petitioner, the disciplinary authority imposed an order of punishment on 13.02.2018. The petitioner's increment was postponed for a period of two years with cumulative effect. Aggrieved by the same, the petitioner moved the higher authorities. But they were in vain. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner took me through the averments set out in the affidavit filed in support of this writ petition and called upon this Court to quash the impugned order of punishment and allow the writ petition as prayed for.

4. Per contra, the learned Special Government Pleader submitted that the impugned orders do not call for any interference. It is open to the disciplinary authority to proceed independently de hors the outcome of a criminal case. Therefore, the approach adopted by the respondent authorities is very much in consonance with the prevailing legal position. He called for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. There is no dispute that the writ petitioner was involved in a case of fatal accident. But it ended in acquittal. A copy of the Judgment dated 23.03.2018 made in C.C.No.1286 of 2017 on the file of the Chief Judicial Magistrate, Srivilliputhur has been enclosed in the typed set of papers.

7. I went through the contents of the said Judgment. On the side of the prosecution, as many as seven witnesses had been examined. Ex.B1 to Ex.B9 were marked. Only after a detailed analysis of the entire evidence on record, the learned Chief Judicial Magistrate had come to the conclusion that the evidence on record is wholly insufficient to find the accused guilty of the offence with which he was charged. The said Judgment has become final. When the competent criminal court did not find the writ petitioner guilty of the offence in question, the disciplinary authority could not have rendered a contra finding on the very same cause of action when the cause of action was not in any way connected with the discharge of the writ petitioner's official duties. The learned counsel appearing for the petitioner draws my attention to G.O.Ms.No.124, Personnel and Administrative Reforms (Per.N) Department, dated 22.02.1983. Clause 2(i) of the said G.O reads as follows:-

(i) When a criminal case is filed solely on a criminal offence committed by the Government servant which is in no way connected with the discharge of his official duties there is no need to pursue departmental action except placing the

Government servant under suspensions as contemplated under Tamil Nadu Civil Services (Classification, Control and Appeal) Rules. The ultimate departmental action can be initiated against the delinquent officer after the result of the criminal case pending against him is disposed of by the Court of law.

8. When the petitioner was involved in the aforesaid offence, he was not discharging his duties. He was returning home after completing his official duties. Therefore, applying the aforesaid clause, I hold that the impugned finding as well as the punishment are absolutely unwarranted. In this view of the matter, the impugned orders are quashed. The Writ Petition is allowed. No costs.

19.09.2022

Index : Yes / No
Internet : Yes/ No
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