



WEB COPY



W.A.No.1937 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.08.2023

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN
AND
THE HON'BLE Mr. JUSTICE MOHAMMED SHAFFIQ

W.A.No.1937 of 2023

P.Alagiri

.. Appellant

Vs.

1.The Director General of Police
Chennai 600 004
Tamil Nadu

2.The Commandant
Tamil Nadu Special Police
X Battalion, Ulundurpet

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the Judgment dated 05.06.2023 passed in Review Application No.50 of 2023 in W.P.No.27077 of 2008.

For Appellant : Mr.M.Gnanasekar
For Respondents : Mr.Abishek Murthy
Government Advocate



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JUDGMENT

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(Judgment of the court was delivered by R. MAHADEVAN, J.)

This Writ Appeal arises from the order dated 05.06.2023 passed by the learned Judge in Review Application No.50 of 2023 in W.P.No.27077 of 2008.

2. According to the appellant, who was a PC-429, TSP X Battalion, he was removed from service by the proceedings of the 2nd respondent dated 27.10.2005, for the misconduct alleged to have been committed by him. Challenging the said order, the appellant preferred an appeal before the 1st respondent and the same was dismissed *vide* proceedings dated 04.05.2008. Aggrieved by the proceedings dated 27.10.2005 and 04.05.2008, he filed W.P.No.27077 of 2008. The learned Judge, by order dated 30.09.2022, dismissed the writ petition holding that the impugned orders do not require any interference as there was no irregularity or perversity in passing the same. Seeking to review the said order of the learned Judge passed in the writ petition, the appellant preferred Review Application No.50 of 2023 and the same was also dismissed by the learned Judge on 05.06.2023. Therefore, the writ petitioner / review applicant is before this court with the present appeal.



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3. Assailing the order passed by the learned Judge, the learned counsel for the appellant contended that the complainant herself gave a statement that she had requested not to take any action on the basis of the complaint earlier lodged by her on 24.05.2005; and she was not subjected for cross examination during enquiry; and hence, the charges framed against the appellant have not been proved beyond reasonable doubt. The learned counsel also submitted that the case of the appellant is covered by the judgment dated 13.12.2018 passed in WA.No.2545 of 2013 and the judgment dated 10.08.2021 passed in WA.No.193 of 2020, wherein it was clearly observed that non-intimation of the anticipatory bail order and the participation in the proceedings before the Revenue Divisional Officer would not per se attract any violation of the rule warranting action. Without considering the same, the learned Judge erred in dismissing the writ petition as well as the review application. The learned counsel, after making some arguments, ultimately, submitted that it would suffice, if liberty is granted to the appellant to challenge the order dated 30.09.2022 passed by the learned Judge in W.P.No.27077 of 2008.

4. The learned Government Advocate appearing for the respondent authorities has no serious objection for granting such liberty to the appellant.



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5. In view of the above submissions made by the learned counsel on either side, liberty is granted and the writ appeal is disposed of accordingly. No costs.

[R.M.D,J.] [M.S.Q, J.]

02.08.2023

Internet : Yes

Neutral Citation : Yes/No
gya

To

1.The Director General of Police
Chennai 600 004
Tamil Nadu

2.The Commandant
Tamil Nadu Special Police
X Battalion, Ulundurpet



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