



WEB COPY

W.A.No.2658



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.2658 of 2023
and
CMP. No. 22316 of 2023

1. The Director General of Police,
Chennai - 04, Tamil Nadu.
2. The Deputy Inspector General of Police,
Vellore Range, Vellore.
3. The Superintendent of Police,
Thiruvannamalai District,
Thiruvannamalai.

.. Appellants

Versus

S.Sathiyamoorthy

.. Respondent

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 04.08.2022 made in WP.No.17363 of 2019.

For Appellants : Mr.P.Kumaresan, Additional Advocate General
assisted by Mrs. S.Anitha,
Special Government Pleader

For Respondent : Mr.L.Chandrakumar



JUDGMENT

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

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Being aggrieved by the order dated 04.08.2022 passed by the learned Judge in WP No.17363 of 2019 on 04.08.2022, the appellants have filed this writ appeal.

2.The facts of the case are that the respondent herein was working as a Head Constable in the appellant-Department. Based on a complaint given by his wife by name Subha alleging that the respondent was in illicit relationship with one Mahalakshmi, disciplinary proceedings was initiated against him, pursuant to which enquiry was conducted. Stating that the charge was proved, the third appellant, being the Disciplinary Authority, by order dated 05.01.2017 imposed a punishment of "removal from service" against the respondent. The said order was challenged before the second appellant, which authority has confirmed the said punishment. As against the same, a review was filed before the first appellant, who modified the punishment into one of "compulsory retirement". Being aggrieved, the respondent filed WP.No. 17363 of 2019 before the writ Court praying to set aside the orders passed by the authorities and to direct the appellants to reinstate the respondent with all consequential benefits.

3.Considering the facts and circumstances of the case, the learned Judge, by order dated 04.08.2022, held that there is no evidence to show that the respondent had illicit relationship with the said Mahalakshmi and accordingly set aside the



orders passed by the appellants and directed the appellants to reinstate the respondent without any back wages for the non-working period and to treat the said period for continuity of service for all other service benefits. Aggrieved by the same, the appellants are before this Court with this intra-court appeal.

4.The learned Additional Advocate General appearing for the appellants submitted that based on the complaint given by the respondent's wife, an enquiry was conducted and only based on the report of the Enquiry officer, the respondent was removed from service. It has been mainly contended that the finding of facts recorded by the Enquiry Officer and the award of punishment and its review by the authorities, ought not to have been interfered by the learned Judge, especially in the career of Police Department where utmost discipline and integrity are followed. However, the learned Judge erred in setting aside the orders passed by the authorities and allowing the writ petition, by the order impugned herein, which will have to be set aside.

5.The learned counsel for the respondent submitted that the respondent and his wife are living together and due to misunderstanding, she made a complaint against her husband and now, she realized her mistakes and living with the respondent happily and an affidavit to that effect has also been filed before the learned Judge and only considering all these aspects, the learned Judge has passed the impugned



order and hence, the same does not require any interference in the hands of this Court.

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6. Heard the learned counsel on either side and perused the records.

7. Admittedly, the respondent was subjected to disciplinary proceedings, based on the complaint lodged by his wife alleging that he had an illicit relationship with one Mahalakshmi. However, it is seen from the cross examination of the respondent's wife that only due to misunderstanding and suspicion, she made a complaint against the respondent. Despite this, the Enquiry Officer has proceeded to state that the charges were proved and the third appellant has imposed the punishment of removal from service. Even the Deputy Inspector General of Police confirmed the same and upon review, the first appellant has modified the punishment into one of compulsory retirement on the ground of his unblemished service. The very complainant itself had come before the Enquiry Officer and deposed that without any basis and on mere suspicion, she made the complaint. An affidavit was also filed before the writ Court to that effect. In the said affidavit, it has been clearly stated by the wife of the respondent that the complaint was preferred only in a fit of anger. She also openly stated before the learned Judge that only out of sheer anger, she had made the complaint. In the said circumstances, the learned Judge has correctly held that once the punishment awarded by the Disciplinary Authority as confirmed by the Appellate



Authority shocks the conscience of the Court, even with regard to the quantum for proven charges, that can be interfered by the Court and that is the law which is well settled. Further, there is no proof to show that the respondent was having illicit relationship with the said Mahalakshmi. When this be the situation, the contention of the learned Additional Advocate General appearing on behalf of the appellants that the finding of facts recorded by the Enquiry Officer and the award of punishment and its review by the authorities, ought not to have been interfered by the learned Judge, does not hold any water.

8.In such view of the matter, this Court is of the considered opinion that the impugned order passed by the learned Judge does not warrant interference. Accordingly, the writ appeal stands dismissed. The appellants are directed to carry out the directions issued by the learned Judge in the impugned order, within a period of eight weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]
18.10.2023

Index : Yes / No
Internet : Yes / No
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