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W.A.No. 2571 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

CORAM :

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

Writ Appeal No. 2571 of 2022
and
C.M.P.Nos.20311 to 20313 of 2022

S.Paramasivam

.. Appellant

Versus

1.The Director General of Police
O/o.Director General of Police
Kamarajar Salai, Mylapore
Chennai – 600 004

2.The Deputy Inspector General of Police
O/o.Deputy Inspector General of Police
Dindigul, Theni District

3.The Superintendent of Police
O/o. Superintendent of Police
Theni District

.. Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order
dated 15.12.2020 made in W.P.No.23653 of 2014.

For Appellant	:	Mr. L.P. Mauriya
For Respondents	:	Mr. S. Yashwanth Additional Government Pleader



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JUDGMENT

(Judgment of this court was delivered by **R. MAHADEVAN. J.**)

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Assailing the order dated 15.12.2020 passed by the learned Judge, dismissing W.P. No. 23653 of 2014 filed by the appellant, the present writ appeal is filed.

2.1. The necessary facts leading to the filing of this writ appeal are recapitulated hereunder:

2.2. The appellant entered into service as Grade II Police Constable in the Police Department in the year 1997. While he was working as such, charge memo was issued to him on the ground that he had illicit intimacy with another married woman and when that was questioned by his wife, he had throttled her neck. The appellant submitted his explanation to the charge memo. Not being satisfied with the explanation offered, an enquiry officer was appointed. Before the enquiry officer, as many as 7 witnesses were examined, who have categorically pointed to the illicit acts of the appellant. On the basis of the evidence made available, the enquiry officer held that the charges against the appellant are proved. After providing a copy of the report of the enquiry officer to the appellant, his further explanation was sought. After considering the further explanation offered by the appellant, the disciplinary authority, vide order dated 30.03.2010, imposed the punishment of compulsory retirement.



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Aggrieved by the same, the appellant preferred an appeal to the 2nd respondent, which was rejected confirming the punishment of compulsory retirement, vide order dated 7.7.2010. The appellant preferred a Review Petition before the 3rd respondent and it also ended in rejection, vide order dated 01.03.2011. Challenging the aforesaid orders passed by the respondents, the appellant has filed the Writ petition before this Court.

2.3. The learned Judge, after considering the submissions of the counsel for both sides, dismissed the writ petition on 15.12.2020, against which, the present writ appeal is filed.

3. The learned counsel for the appellant submitted that the learned Judge did not consider the fact that the appellant has filed HMOP No. 56 of 2009 for divorce and it is pending before the learned Principal Subordinate Judge, Theni. According to the learned counsel, the averments in HMOP No. 56 of 2009 would prove that there is matrimonial discord between the appellant and his wife and therefore, a false complaint has been given against him by his wife, which led to the second charge. It is also submitted that the learned Judge did not consider the fact that the punishment imposed on the appellant is disproportionate to the nature of charges levelled and allegedly proved against him. When the punishment imposed is shocking the conscience



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of the Court, the learned Judge ought to have interfered with the same by allowing the writ petition.

4. On the above contentions of the counsel for the appellant, we have heard the learned Additional Government Pleader for the respondents, who submitted that the learned Judge after carefully considering the submissions made by the learned counsel on either side, has correctly dismissed the writ petition and therefore, the same does not call for any interference by this Court.

5. We have also perused the materials placed before us.

6. At the outset, it must be stated that to prove the charges levelled against the appellant, a departmental enquiry was conducted in which seven witnesses were examined. The enquiry officer, on consideration of the statement of the witnesses, held that the charges against the appellant are proved. After serving the report of the enquiry officer and upon receipt of further explanation from the appellant, the disciplinary authority imposed the punishment of compulsory retirement. Thus, the order of compulsory retirement is preceded by a valid departmental enquiry in which witnesses were examined and an opportunity to cross-examine the witnesses was given to the



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appellant. The appellant also did not dispute the manner in which the departmental enquiry was conducted. In such circumstances, the order of punishment passed by the disciplinary authority, based on the findings of the enquiry officer relying on the medical evidence, cannot be interfered by exercising the power under Article 226 of the Constitution of India.

7. Furthermore, as against the order of punishment imposed by the disciplinary authority, appeal as well as review have been filed by the appellant. The Appellate Authority as well as the Revisional Authority have rejected the same and confirmed the order of punishment. The grounds raised by the appellant in this appeal have already been considered and rejected by the appellate authority as well as the revisional authority, while so, we are of the view that there is no ground made out by the appellant for interference and hence, the writ petition was rightly dismissed by the learned Judge. It is also to be noted that the learned Judge passed an elaborate order by referring to various decisions of the Honourable Supreme Court and ultimately, held that in a case of this nature, exercise of writ jurisdiction is not proper. We find no reason to take a different view in this appeal, than the one taken by the learned Judge. Thus, the writ appeal is devoid of merits and is liable to be dismissed.

8. In fine, the writ appeal is dismissed. No costs. Consequently,



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connected miscellaneous petitions are closed.

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(R.M.D., J) (M.S.Q., J)
15.03.2023

dhk/rsh

Internet : Yes / No

Index : Yes/No

To

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