



Rev.Appl.No.50 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.04.2023

PRONOUNCED ON : 05.06.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

Rev.Appl No.50 of 2023

in

W.P.No.27077 of 2008

P.Alagiri

... Applicant

VS

1.The Director General of Police,
Chennai – 600 004.
Tamil Nadu & Anr.,

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

... Respondents

PRAYER: Review Application filed under Article 226 of the Constitution of India read with Order 47 Rule 1 of CPC 1908, R/W Section 114 CPC praying to review the order dated 30.09.2022, passed in W.P.No.27077 of 2008 and allow the same as prayed for.



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For Applicant : Mr.M.Gnanasekar &
M/s.T.Gnana Banu

For Respondents : Mrs.Yamuna Devi Spl., P.P.,

JUDGMENT

This Review Application had been filed seeking this Court to review the order made by this Court in dismissing the Writ Petition by upholding the punishment imposed on the petitioner.

2. Two fold contentions have been made by Mr.M.Gnanasekar, learned counsel appearing for the Applicant viz a) that the statements given by the witnesses during the enquiry proceedings do not substantiate the allegations made against the petitioner; b) that this Court had not considered the Division Bench judgment relied upon by the petitioner as regards to the charge that the petitioner had not intimated the department about the criminal case and grant of Anticipatory Bail.

3.This Court while dismissing the Writ Petition had considered the charges that was levelled against the petitioner. The reading of the Division



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Bench judgment relied upon by the learned counsel appearing for the review applicant particularly the order made in W.A.No.2545 of 2013, would reveal that the Division Bench has specifically recorded that the registration of the criminal case and the occurrence was not during the course of the employment. Further the Hon'ble Division Bench has also recorded the delinquent therein had been honorably acquitted in the criminal case. The said judgment had been followed by the further Division Bench that has been relied upon by the learned counsel for the review applicant and the said judgment made in W.A.No.193 of 2020 apart from relying upon the earlier judgment had also further held that Rule 17(b) does not provide any punishment to an employee for his failure to intimate the employer about the alleged involvement in a criminal case. However, the power is only vested with the employer to place the employee under suspension for involvement of the employee in a criminal offence, which is under investigation or trial and therefore, the employer do not have *locu-standi* to proceed against the delinquent on charges of not intimating the department of his involvement in a criminal case.

4.In the present case on hand, the Review Applicant is alleged to have



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been involved in a heinous crime, of course, the witnesses have not turned out against the review applicant in the criminal case and on that ground he had been acquitted and he has not been honorably acquitted. Further, the witnesses who had not turned out before the criminal Court had turned up before the enquiry officer and deposed evidence. It is true that the complaint had not submitted herself for cross examination, but other witnesses who have evidenced such occurrences had been cross examined by the petitioner.

5. Even assuming that based upon the Division Bench judgments, the review applicant could not be proceeded with charge No.2, I am convinced that the review applicant had been found to have been guilty of charge No.1, which in my view cannot be held to be perverse calling for any interference by this Court. Only on coming to conclusion that the Charge No.1 had been held to be proved and there was no necessity to interfere with such a finding, and also considering that there was dereliction by the delinquent with reference to the charge No.2, this Court had confirmed the punishment imposed as against the Review Applicant/Petitioner. Even if charge No.2, is held to be not proceeded with, the punishment imposed on the Review Applicant/petitioner for the first charge, the findings of which I have found to be not perverse, the



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punishment imposed upon the applicant do commensurate with the charges levelled against the applicant/petitioner in respect of Charge No.1.

6.Hence, I find no reason to review the order passed in the Writ Petition and the Review Application is accordingly, dismissed. However, there shall be no order as to costs.

05.06.2023

pbn

Index :Yes/No

Internet:Yes/No

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