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W.A.(MD) No.1571 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

**W.A.(MD) No.1571 of 2023
and
C.M.P.(MD) No.12190 of 2023**

M.Senthil Kumar

... Appellant

-vs-

- 1.The Director General of Police
Dr.Radhakrishnan Salai
Mylapore, Chennai District
- 2.The Deputy Inspector General of Police
Madurai Range
Alagar Kovil Road, Madurai District
- 3.The Superintendent of Police
O/o.The Superintendent of Police
Madurai District

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 02.06.2023, passed in W.P.(MD) No.17404 of 2020, on the file of this Court.



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For Appellant : Mr.Ramasundarvijayraj
For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

J U D G M E N T

[Judgment of the Court was made by S.M.SUBRAMANIAM, J.]

This writ appeal is directed against the order of the learned Single Judge, dated 02.06.2023, passed in W.P.(MD) No.17404 of 2020.

2. The appellant / writ petitioner joined in the Police Department as Grade-II Police Constable in the year 2003. He was implicated in a criminal case in Crime No.364 of 2012, registered on the file of Melur Police Station, for the offence under Sections 147, 148, 341, 324, 506(ii) read with 379 (NP) of I.P.C. A charge memo was issued to the appellant on 29.01.2014 under Rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline and Appeal) Rules, 1955. The appellant submitted his explanations and an Enquiry Officer was appointed, who in turn conducted an enquiry and submitted a report to the Disciplinary Authority / Superintendent of Police, Madurai District on 19.08.2014, holding that the charge against the appellant was



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proved. The copy of the enquiry report was served on the appellant and he submitted his further explanations to the Disciplinary Authority. The Disciplinary Authority passed an order, dated 14.10.2016, agreeing with the findings of the Enquiry Officer and imposed a punishment of postponement of increment for two years with cumulative effect. Challenging the same, the appellant preferred an appeal before the Deputy Inspector General of Police, Madurai Range, who in turn modified the punishment imposed by the Disciplinary Authority to the effect of postponement of increment for a period of one year without cumulative effect. The mercy petition filed by the appellant before the Director General of Police was dismissed. Challenging the order passed by the Appellate Authority modifying the punishment imposed by the Disciplinary Authority, the appellant filed the writ petition.

3. The learned Single Judge considered the issues as well as the nature of the charge proved against the appellant and dismissed the writ petition by order dated 02.06.2023. Thus, the appellant is constrained to move this writ appeal.



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4. Learned counsel appearing for the appellant mainly contended that the appellant was acquitted from the criminal charge and therefore, he is entitled to be exonerated from the departmental disciplinary proceedings. The learned Single Judge has not considered this aspect and thus, this writ appeal has been filed.

5. The procedures to be followed in the departmental disciplinary proceedings and the criminal case are distinct and different. High standard of proof is required to convict a person under the Criminal Law. However, no such strict proof is required to punish an employee under the Discipline and Appeal Rules. Benefit of doubt is a ground to grant acquittal in the criminal proceedings. Preponderance of probabilities are sufficient to punish an employee under the Discipline and Appeal Rules. Therefore, mere acquittal in the criminal case cannot be a ground to seek exoneration from the departmental disciplinary proceedings. Even in case of acquittal in the criminal case, the Disciplinary Authority is empowered to conduct an independent enquiry and punish an employee under the Discipline and Appeal Rules. This being the principles to be followed, we find no infirmity in the findings of the learned Single Judge.



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6. Accordingly, this writ appeal is dismissed and the order dated 02.06.2023, passed in W.P.(MD) No.17404 of 2020, is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

[S.M.S., J.]

[V.L.N., J.]

12.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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- 1.The Director General of Police,
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