



W.P.(MD).No.15666 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 20.03.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.15666 of 2018
and
W.M.P.(MD).No.14059 of 2018**

T.Sundara Rajan

... Petitioner

Vs.

1.The Director General of Police,
Tamil Nadu,
Chennai – 4.

2.The Deputy Inspector General of Police,
Tirunelveli Range.

3.The Superintendent of Police,
Thoothukudi District.

4.The Deputy Superintendent of Police,
Armed Reserved,
Thoothukudi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order of punishment passed by the third respondent dated 17.12.2015 in Ta.Pa.No.111/2014 under 3(b) and quash the same and consequently quash the order passed by the first respondent dated 05.09.2017 in RC.No.156667/AP.2(1)/2016.



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For Petitioner : Mr.S.Ramasamy

For Respondents : Mr.M.Lingadurai,
Special Government Pleader.

ORDER

This Writ Petition is filed to quash the impugned orders dated 17.12.2015 and 05.09.2017.

2. The petitioner joined the service as Grade-II Police Constable in the year 2008 and has worked in various places. During the year 2014, he was posted as Traffic Police Constable at Kovilpatti. On 26.06.2014, while he was working, one Mahalakshmi who was 12th Standard student has given a complaint to the Inspector of Police stating that each and every day when she was going to the School, the said girl was teased by calling her through whistle during the traffic hours by the petitioner. After receiving the complaint, a case was registered in Crime No.757 of 2014 for the offences under Section 4 of Tamil Nadu Women Harassment Act. Hence, the respondents have issued charge memo dated 16.09.2014 and the petitioner has submitted his explanation on 03.10.2014. Thereafter, an enquiry officer was appointed and concluded



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that the charges were proved against the petitioner vide report dated 14.08.2015. In the meanwhile, the petitioner was placed under suspension and the third respondent vide order dated 17.12.2015 imposed the punishment of postponement of increment for a period of two years with cumulative effect. Subsequently, the petitioner was acquitted in criminal case vide judgment dated 02.06.2016 in C.C.No.220 of 2015 by the learned Judicial Magistrate-I, Kovilpatti. Based on the acquittal in the Criminal case, the petitioner preferred appeal against the order dated 17.12.2015 and the same was rejected vide order dated 05.09.2017. Since the order of punishment is affecting the petitioner's future promotion, the petitioner is before this Court.

3. The respondents have filed a counter stating that when the petitioner has committed offence, both the criminal case and the disciplinary proceedings were initiated against the petitioner. A charge memo under Rule 3(b) of TNPSS (D&A) Rules, 1955 was issued. After giving sufficient opportunity to the petitioner by following the principles of natural justice, the enquiry officer has come to the conclusion that the charges are proved. Accepting the enquiry report, the respondents have imposed the punishment. The petitioner cannot seek to revise the punishment based on the acquittal in the criminal case. Since the evidence in the criminal case is strict evidence whereas in the disciplinary



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proceedings only preponderance of probability. Based on the nature of charge, appropriate punishment was imposed against the petitioner. Moreover, the complainant deposed that the petitioner's wrongful act in the public place caused mental agony to her, all the prosecution witnesses also deposed about the petitioner act. Therefore, the respondents prayed to sustain the punishment imposed on the petitioner.

4. Heard Mr.S.Ramasamy, learned counsel for the petitioner and Mr.M.Lingadurai, learned Special Government Pleader appearing for the respondents and perused the records.

5. Pending Writ Petition, the petitioner is directed to be present before the Court and tender apology before this Court. When the Writ Petition was taken up for hearing, the petitioner appeared before this Court and tendered an apology and also gave assurance that he will behave properly in future. Moreover, he is married and having two daughters. Now he knows the dignity of woman and it ought to be protected. Hence, he prays to set aside the punishment order.



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6. The complainant has deposed before the disciplinary proceedings that the petitioner has misbehaved and has caused mental agony to her. However, the same complainant has become hostile in the criminal proceedings. Moreover the petitioner has appeared before this Court and has tendered apology, coupled with the fact that he is married and having two daughters. He also given assurance before this Court that he would behave properly in future. Hence, this Court is sympathetically considering the petitioner's case. Therefore, the impugned order is set aside and the consequential benefits shall be granted to the petitioner. The said exercise shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order.

7. In view of the above, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

20.03.2023

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



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S.SRIMATHY, J.

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