



WEB COPY



WP.No.4162 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.02.2024

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.4162 of 2021

and

WMP.No.4749 of 2021

S.Yuvaraj

...

Petitioner

/vs/

1. The Director General of Police /
The Director General of Prison,
Egmore, Chennai 600 008.

2.The Deputy Inspector General of Prison,
The In-charge of Sub Jail,
Perambalur District,
Trichy Range,
Trichy.

...

Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records relating to the order to 1st respondent dated 01.06.2020 in No.658/EW.2/2018 confirming the order of the 2nd respondent dated 04.05.2004 in proceedings No.1501/Mu.Voo/2004 and quash the same.

For Petitioner : Mr.K.Selvaraj

For Respondents : Mr.T.Chezhiyen,
Additional Government Pleader



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ORDER

The petitioner who was imposed with the punishment of compulsory retirement has filed this Writ Petition challenging the order of punishment passed by the 1st respondent and confirmed by the 2nd respondent.

2. Heard, Mr.K.Selvaraj, learned counsel for the petitioner and Mr.T.Chezhiyen, learned Additional Government Pleader for the respondents and perused the materials available on record.

3. In fact, the petitioner had already filed a Writ Petition in W.P.No.22687 of 2004 seeking the very same relief, in which, the following order has been passed:

9. Since the major punishment of compulsory retirement had been inflicted on the petitioner and the same had been appealed to the Appellate Authority, the said authority must have looked into the merits of the matter in proper perspective by examining the veracity of the charge, the evidentiary value as well as the conclusive decision of both the enquiry officer as well as the disciplinary authority and to justify whether the conclusion arrived by the disciplinary authority based on the enquiry report was justifiable based on the available materials. Such a procedure even though has been contemplated under the Rule as referred to above, the same seems to have not been adopted by the Appellate Authority, before passing the impugned order. Therefore, this Court is of the view that, the Appellate Authority's order can be very well be interfered with.

In the result, the following orders are passed in this Writ petition:

(i) The Appellate Authority's order which is impugned herein dated 02.07.2004 is hereby quashed and the matter is remitted



back to the Appellate Authority, the first respondent herein for consideration.

(ii) While making such consideration, the procedure contemplated under Rule 6 of the Tamil Nadu Police Subordinate Service (Discipline & Appeal) Rules, 1955 shall be scrupulously followed with proper reasoning and also the Appellate Authority must keep in mind that, the petitioner had rendered unblemished service of seven years for the department and the mere alleged reason on which the charge was framed against the petitioner for the alleged quarrel between the petitioner and the employee. Therefore, considering these aspects, the Appellate Authority can also take a decision to inflict some alternative punishment in commensurate with the proven charge, if ultimately, the Appellate Authority decided to give the punishment. The aforesaid exercise shall be undertaken by the first respondent, Appellate Authority, within a period of two months, from the date of receipt of a copy of this order."

Consequent to the said order, the impugned order dated 01.06.2020 has been passed. In spite the directions are given for considering lesser punishments the higher punishment of compulsory retirement was imposed.

4. Mr.T.Chezhiyen, learned Additional Government Pleader for the respondents submitted that the order given in WP.No.22687 of 2004 has been considered and only after considering the same, the impugned order has been passed.

5. On perusal of the order passed in the above Writ petition, it is found that the 1st respondent was directed to consider the unblemished services rendered by the petitioner for 7 years and also taken a decision to impose some alternate



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punishment which commensurate to the proven charges, if at all the Appellate Authority decides to give any punishment.

6. But from the impugned order, it is seen that the Appellate Authority has approached the matter with a closed mind set without understanding the scope of direction. The order does not even discuss about the unblemished service rendered by the petitioner. No reason has been stated as to why no alternate punishment has been chosen to be inflicted except a serious, major punishment.

7. Since the very object of the earlier order itself was to approach the issue from a different perspective, but the same was not followed. Hence, I feel it is appropriate to remand the matter once again to the respondents, pass orders in complete compliance with the directions already given, and pass a fresh order within a period of six weeks from the date of receipt of a copy of this order.

With the above direction, this Writ Petition is **disposed**. No costs. Consequently, the connected miscellaneous petition is closed.

06.02.2024

Index : Yes/No
Internet : Yes/No
Speaking/ Non-speaking
Neutral: Yes/No
jrs



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