



W.P.No.34224 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.34224 of 2013
and MP.No.1 of 2013

S.Balasundaram

...Petitioner

Vs.

1.The Superintendent of Police,
Cuddalore District, Cuddalore.

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

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the respondent Nos.1 and 2 in connection with the impugned orders passed by them in PR.No.D3/PR81/2012 dated 30.07.2013 and C.No.B3/Appeal 40/2013 dated 19.11.2013 respectively.

For Petitioner : Mr.K.Venkataramani, SC for
Mr.M.Muthappan
For Respondents : Mr.R.Vigneshwaran,
Government Advocate



ORDER

This writ petition has been filed aggrieved by the order of the first respondent bearing No.PR.No.D3/PR81/2012 dated 30.07.2013 whereby the punishment of compulsory retirement was imposed on the petitioner as well as the order dated 19.11.2013 passed by the second respondent rejecting the appeal filed by the petitioner against the order of punishment of compulsory retirement.

2. The charge that is leveled against the petitioner is bigamy. He married one Ms.Parameswari during the subsistence of his marriage with another person namely one Ms.Sentamil Selvi and is living in a police quarter allotted to the petitioner along with the said Ms.Parameswari, who also gave birth to a child. The petitioner as well as the said Ms.Parameswari were subjected to disciplinary proceedings on almost identical charges and the said Parameswari was imposed with punishment of postponement of increment for a period of two years, which should operate to postpone her future increments whereas the petitioner was imposed with major punishment of compulsory retirement from service.

3. According to the learned Senior Counsel appearing on behalf of the petitioner, though the petitioner raised several grounds in the appeal dated



16.8.2013 before the second respondent including lack of evidence in establishing the charges leveled against him, the second respondent passed an order dated 19.11.2013 without considering any of the grounds raised by the petitioner.

4. A perusal of the order dated 19.11.2013 shows that the same is cryptic in nature and the grounds that were raised by the petitioner in his appeal were not considered. Further, when similar and identical charges were framed against both the petitioner as well as the said Ms.Parameswari, the second respondent, without taking into consideration the said fact, imposed the major penalty of compulsory retirement from service on the petitioner. Further, this Court is also of the view that the stand of the petitioner that his first wife was not fit for marital life and therefore, HMOP No.74 of 2011 was filed on the file of the Subordinate Court, Chidambaram for declaring the marriage as nullity was not taken into consideration by the first respondent.

5. At least, the second respondent ought to have taken into consideration the pendency of the said original petition filed by the petitioner for declaring the marriage as nullity. In case the petitioner succeeds in the said HMOP and the



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marriage of the petitioner with the said Ms.Sentamil Selvi is declared as a nullity, even if the petitioner married the said Ms.Parameswari also, the same would not amount to bigamous marriage. The second respondent ought to have taken into consideration all these aspects while considering the appeal filed by the petitioner and also ought to have considered the grounds that were raised by the petitioner in his appeal elaborately. By taking into consideration the overall facts and circumstances of the case, this Court is of the view that the second respondent failed to consider the appeal filed by the petitioner in proper perspective resulting in passing of an order dated 19.11.2013 rejecting the appeal filed by the petitioner. In such circumstances, this Court is also of the considered view that this is a fit case where the matter should be remanded to the second respondent for re-consideration of the appeal filed by the petitioner.



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6. Accordingly, the order dated 19.11.2013 passed by the second respondent is set aside and the matter is remanded for fresh consideration of the appeal filed by the petitioner and to pass an appropriate order in accordance with law. The second respondent is further directed to keep in mind the fact that the said Ms.Parameswari was imposed with punishment of postponement of increment and accordingly, pass orders in the appeal filed by the petitioner. The second respondent is also directed to dispose of the appeal as expeditiously as possible and at any rate, within a period of two (2) months from the date of receipt of copy of this order. The petitioner is also granted liberty to supplement the grounds of appeal within a period of two weeks from the date of receipt of copy of this order.

7. With the above directions, this writ petition stands disposed of. No costs. Consequently, the connected MP stands closed.

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
NST



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MUMMINENI SUDHEER KUMAR,J

NST

To

- 1.The Superintendent of Police,
Cuddalore District, Cuddalore.
- 2.The Deputy Inspector General of Police,
Villupuram Range, Villupuram.

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