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Writ Petition No.10810 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18/12/2024

C O R A M

THE HONOURABLE Mr.JUSTICE VIVEK KUMAR SINGH

Writ Petition No.10810 of 2021

a n d

W.M.P.No.11437 of 2021

I. Babukumar

...

Petitioner

Vs

1. The State of Tamil Nadu
rep. By its Additional Chief Secretary to Government
Home (Police VI) Department
Fort St. George, Secretariat
Chennai 600 009.
2. The Director General of Police
Chennai 600 004.
3. The Superintendent of Police
District Police Office
Tiruppur District.

...

Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records in pursuant to the impugned order of punishment of postponement of increment for one year with cumulative effect issued by the third respondent in proceedings C.No.F1/PR 147/2012 dated 28/11/2013 and consequential



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appellate order issued by the second respondent in Proceedings RC.No.004495/AP.I (1)/2018 dated 27/5/2018 which was confirmed by the first respondent in G.O.(D) No.777 Home (Police VI) Department dated 27/6/2020 and quash these orders and consequently, direct the respondents to restore the withheld the increment to the petitioner and to sanction all other consequential service and monetary benefits.

For petitioner	...	Mr.K.Naganathan
For respondents	...	Mr.R.U.Dinesh Rajkumar Additional Government Pleader

ORDER

This writ petition has been filed to quash the order of punishment of postponement of increment for one year with cumulative effect issued by the third respondent in proceedings C.No.F1/PR 147/2012 dated 28/11/2013 and consequential appellate order issued by the second respondent in Proceedings RC.No.004495/AP.I (1)/2018 dated 27/5/2018 which was confirmed by the first respondent in G.O.(D) No.777 Home (Police VI) Department dated 27/6/2020 and consequently, direct the respondents to restore the withheld the increment to the petitioner and to sanction all other consequential service and monetary benefits.



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2. The case of the petitioner in brief are as follows:-

While the petitioner was serving in Mangalam Police Station, Tiruppur District, on 14/4/2012, along with his brother-in-law went to Palladam Kosavampalayam road in a two wheeler and stopped the oncoming lorry bearing Registration No.TN-47-J-5676, quarelled with the driver and broke the front windshield of the lorry. Pursuant to the said incident, he was suspended under Rule 3 (e) (1) (i) of TNPSS (DAA) Rules, 1995, on 17/4/2012 and he was released from suspension on 26/5/2012 by the third respondent.

3. On 12/12/2012, third respondent issued a charge memo under Rule 3 (b) of TNPSS (D & A) Rules, 1955. Hence, the petitioner made a representation to the third respondent, to exonerate him from the charges framed against him. Third respondent, taking note of preliminary statements of P.Ws.2 to 5, passed the impugned order dated 28/11/2013 thereby, imposed the punishment of postponement of increment for one year with cumulative effect. Since the second and first respondents have confirmed the punishment, the petitioner has come forward with the instant writ petition.



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4. Heard Mr.N.Naganathan, learned counsel for the petitioner and Mr.Govindasamy, learned Special Government Pleader for the respondents.

5. The learned Additional Government Pleader relied on the judgment of the Hon'ble Supreme Court in the case of *the State of Karnataka and another Vs. Umesh in C.A.Nos.1763-1764 of 2022*. In the said Civil Appeals, the Hon'ble Supreme Court has passed the following order:

“17. In the exercise of judicial review, the Court does not act as an appellate forum over the findings of the disciplinary authority. The court does not re-appreciate the evidence on the basis of which the finding of misconduct has been arrived at in the course of a disciplinary enquiry. The Court in the exercise of judicial review must restrict its review to determine whether: (i) the rules of nature justice have been complied with; (ii) the finding of misconduct is based on some evidence; (iii) the statutory rules governing the conduct of the disciplinary enquiry have been observed; and (iv) whether the findings of the disciplinary authority suffer from perversity; and (v) the penalty is disproportionate to the proven misconduct. However, none of the above tests for attracting the interference of the High Court were attracted in the present case. The Karnataka Administrative Tribunal having exercised



the power of judicial review found no reason to interfere with the award of punishment of compulsory retirement. The Division Bench of the High Court exceeded its jurisdiction under Article 226 and trenched upon a domain which falls within the disciplinary jurisdiction of the employer. The enquiry was conducted in accordance with the principles of nature of justice. The findings of the inquiry officer and the disciplinary authority are sustainable with reference to the evidence which was adduced during the enquiry. The acquittal of the respondent in the course of the criminal trial did not imagine upon the authority of the disciplinary authority or the finding of misconduct in the disciplinary proceeding.”

6. In the light of the judgment passed by the Hon'ble Supreme Court in the Civil Appeals as stated supra, this Court finds no merits in this petition and hence, the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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mvs.

Index: yes/No

Neutral Citation: Yes/No



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VIVEK KUMAR SINGH,J

mvs.

To

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