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WA No. 924 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12-03-2024

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No. 924 of 2023
and
C.M.P. No. 9243 of 2023

1. The Chief Secretary
Government of Tamil Nadu
Fort St. George, Chennai
2. The Additional Chief Secretary
Government of Tamil Nadu
Fort St. George, Chennai
3. The Director General of Police
Police Head Quarters, Mylapore
Chennai
4. The Deputy Inspector General of Police
Tirunelveli Range
Tirunelveli

.. Appellants

Versus

A. Jayasubramanian
Deputy Superintendent of Police
(Under Compulsory Retirement)
I.U.C.A.W. Vellore
Presently residing at
Door No.A1/5, Assistant Commissioner of Police Quarters
Anna Nagar, Chennai - 600 040

.. Respondent



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Writ Appeal filed under Clause 15 of the Letters Patent against the Order dated 14.10.2022 passed by the learned Judge in Writ Petition No. 629 of 2021.

For Appellants : Mr. P. Kumaresan, Additional Advocate General
assisted by Mrs. Mythrye Chandru
Special Government Pleader

For Respondent : Mr. S.T.S. Murthy, Senior Advocate
for Ms. S. Varsha

JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J)

The appellants have come up with this intra-court appeal, questioning the correctness of the order dated 14.10.2022 passed by the learned Judge, allowing the Writ Petition No. 629 of 2021 filed by the respondent herein.

2. The respondent herein, as Writ Petitioner, has filed the above writ petition praying to issue a Writ of Certiorarified Mandamus calling for the records in connection with the Charge Memo No. PR. No.99/2013 dated 30.07.2013 issued by the Deputy Inspector General of Police, Tirunelveli, differed Memo Letter No.56603/POL.2/2015-9 dated 13.02.2018 as well as the order of punishment vide G.O. (2D) No. 342 Home (Police 2) Department, dated 26.11.2019 passed by the Additional Chief Secretary to Government of Tamil Nadu, quash the same and consequently direct the second appellant



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herein to reinstate the respondent into service with all consequential service benefits.

3.(i) In the affidavit filed in support of the Writ Petition, it was stated by the respondent that he joined the Police Department during 1987 and was promoted to the post of Deputy Superintendent of Police during the year 2010. It was also stated that during the year 2000, he was conferred with "Uthamar Gandhi Medal" for his meritorious service in the department.

(ii) According to the respondent, during 1999, when he was working as Inspector of Police, Thuckalay Police Station, he investigated a case relating to a road accident that had taken place on 30.06.1999. As per the first information report, the driver of Ambassador Car bearing Registration No. TMZ 1812 had driven it in a rash and negligent manner and hit a two wheeler bearing Registration No. TN 74 B 8641 driven by one Rathinasamy, Son of Valiyaperumal Nadar. As a result, the driver of the two wheeler had hit one Saradha, Wife of Rathinasamy (son of Parameswaran) who was walking on the road and she sustained grievous injuries. When the accident victims were taking treatment in the hospital, their statements were recorded, based on which, a case in Crime No. 956 of 1999 was registered on 30.06.1999 for the offences punishable under Sections 279, 337 and 304 (A) IPC against the



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driver of Ambassador Car bearing TMZ 1812 for having caused the accident.

After completion of investigation, charge sheet was filed on 30.08.1999 and it was taken on file as S.T.C. No. 3158 of 1999 on the file of the Judicial Magistrate, Padmanabhapuram. In this connection, the driver of the Ambassador Car was arrested and produced before the said Court, where he admitted his guilt and paid the fine amount of Rs.2,500/-. Thus, the criminal case registered against the driver of the Ambassador car ended in conviction with payment of fine amount of Rs.2,500/- on 19.07.1999.

(iii) In the meantime, for the death of Rathinasamy, Son of Valiyaperumal Nadar, who drove the two wheeler on the fateful day, his legal heirs viz., Gomathi / wife, son and daughter filed MCOP No. 41 of 1999 before the Motor Accident Claims Tribunal, Padmanabhapuram, against the Driver, owner, insurer of the Ambassador Car as well as the insurer of the Two wheeler driven by the deceased Rathinasamy.

(iv) On receipt of the summons in MCOP No. 41 of 1999, the investigator of Oriental Insurance Company Ltd. conducted an enquiry and came to a conclusion that the Ambassador Car bearing Registration No. TMZ 1812 was not involved in the accident at all and submitted his report to that effect. Based on such report, the Senior Divisional Manager, Oriental Insurance Company Ltd. sent a complaint to the Additional Director General



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of Police, CB CID, Chennai, to take action against the driver of the Car, owner of the Car as well as the investigating officer of the case in Crime No. 956 of 1999. On the basis of such complaint, a case in Crime No. 17 of 2005 was registered for the offence under Section 420 IPC. The investigation of the case was taken up by Tr. Simson Prathab Singh, Deputy Superintendent of Police, District Crime Branch. After an enquiry, he referred the complaint as mistake of fact. Aggrieved by the closure of the complaint, an appeal was filed by the Insurance Company and Tr. Sankar Dev, Inspector of Police, CB CID, Tirunelveli was nominated as investigating officer to re-investigate the case. Upon such re-investigation, it was concluded that the Ambassador Car was not involved in the accident at all and for the purpose of obtaining pecuniary advantage, it was projected as if the Ambassador Car was involved in the accident. On the other hand, the deceased two wheeler rider Rathinasamy, Son of Valiyaperumal Nadar, due to his rash and negligent driving, hit the injured Saradha, Wife of Rathinasamy (son of Parameswaran) and subsequently he died. Accordingly, re-investigation report dated 30.09.2010 was submitted to the appellants herein in which it was recommended to take departmental action as against Tr. Simson Prathab Singh, Deputy Superintendent of Police, District Crime Branch as well as the respondent herein for suppression of facts and for having conducted a perfunctory investigation.



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(v) In the meantime, the Motor Accident Claims Tribunal passed an award in MCOP No. 41 of 1999, on 29.04.2004 awarding Rs.5,00,000/- as compensation to the claimants with interest at the rate of 7.5% payable by M/s. Oriental Insurance Company Limited, insurer of the Ambassador Car. Challenging the award of the Tribunal, the Insurer filed C.M.A. (MD) No. 315 of 2006 in which an order of interim stay was granted on condition to deposit 50% of the award amount, which has been complied with by the appellant / Insurer. Subsequently, the appeal was posted before the Lok Adalat on 17.09.2011 to explore the possibility of settlement. In the Lok Adalat, the claimants conceded to receive a total sum of Rs.4,50,000/- as against Rs.5,00,000/- awarded by the Tribunal. Accordingly, the Civil Miscellaneous Appeal was disposed of and the compensation amount was also paid by the Oriental Insurance Company Ltd., to the claimants viz., legal heirs of the deceased Rathinasamy.

(vi) On the basis of the report of re-investigation dated 30.09.2010, a charge Memo under Rule 17 (b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955 was issued to the respondent in PR No. 99 of 2013 on 30.07.2013. The charge against the respondent reads as follows:

"Highly reprehensible conduct in having falsely introduced the Ambassador Car bearing Registration No. TMZ 1812 in the case in Thuckalay PS Cr.No. 956 of 1999 under Sec. 279, 337 and 304 (A) of IPC during the investigation of the case on 30.06.1999 and also falsely created witnesses and documents with an intention to do favour to the



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family of the deceased for claiming compensation from the concerned Insurance Company."

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(vii) In order to prove the charge, on behalf of the Department, as many as 16 witnesses were examined. All the witnesses were cross-examined by the respondent at length. The enquiry officer, upon analysing the statement of the witnesses as also the documents, held that the Insurance Company, on the one hand, gave the complaint on the basis of the investigator of the company to the effect that the Ambassador Car was not involved in the accident. On the other hand, the Insurance Company participated in the Lok Adalat and settled the compensation amount to the claimants. The enquiry officer also concluded that the involvement of the Ambassador Car is very much corroborated by the deposition of PWs 5, 7, 8 and 9 and also elicited from Exs. P12, 14, 15, 16, 20, 23, 26, 43, 44 and 47. Therefore, the enquiry officer opined in his report dated 13.08.2015 that the charge against the respondent was not proved.

(viii) On receipt of the report of the enquiry officer, the second appellant in his proceedings dated 13.02.2018, refused to accept the report of the enquiry officer dated 13.08.2015 and intended to reverse the findings as against the respondent. Accordingly, the second appellant herein called upon the respondent to submit his further representation on the deviated views on



the findings of the enquiry officer. The respondent also submitted his further representation dated 04.04.2018 by referring to the deposition of PW1, 2 and 6 and Ex.P48 and the preliminary enquiry report of the Deputy Superintendent of Police, Kanyakumari, to the effect that he is innocent and has not committed any delinquency, as alleged, and prayed to drop all further proceedings initiated against him.

(ix) The second appellant, on considering the statement of the witnesses, the documents produced during the enquiry, the report of the enquiry officer as well as the further representation of the respondent, passed G.O. (2D) No. 342, Home (Police-2) Department dated 26.11.2019 imposing the punishment of "Compulsory retirement" from service.

(x) Aggrieved by the order dated 26.11.2019 of the second appellant, the respondent has submitted a Review Petition to the first appellant on 18.12.2019 and prayed to set aside the order dated 26.11.2019 and to reinstate him in service. Pending the same, the respondent preferred WP No. 629 of 2021 challenging the charge memo as well as punishment imposed on him. In the mean while, by G.O. (D) No. 231, Home (Police-2) Department dated 18.02.2021, the first appellant rejected the review petition of the respondent.

(xi) The learned Judge, on considering the evidence on record, held that the initiation of the disciplinary proceedings against the respondent is



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belated and it has caused acute prejudice to him. It was also held that the appellants have taken 15 years to conclude the enquiry proceedings against the respondent and such delay on the part of the department is uncalled for. It was further held that the second appellant had taken more than 2 years to take a differed view and that the disagreement reached by the second appellant against the report of the enquiry officer is without any reason. Above all, it was held that the Insurance Company failed to produce materials before the Tribunal as well as the writ Court to substantiate their claim and the appellants 1 and 2 also without giving any reason, disagreed with the well concluded findings of the enquiry officer and imposed the punishment of compulsory retirement from service against the respondent, which is unsustainable in law. Accordingly, by the order dated 14.10.2022 which is impugned herein, the writ petition filed by the respondent was allowed by the learned Judge with a direction to the appellant authorities to reinstate the respondent in service with all consequential service and monetary benefits. It was also directed that the period from the date of compulsory retirement viz., 26.11.2019 to the date of reinstatement in service shall be treated as period spent on duty for all purposes. Therefore, the appellant authorities are before this court with the present appeal.



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4.(i) Mr. Kumaresan, learned Additional Advocate General appearing for the appellants submitted that the learned Judge is not correct in concluding that there was 20 years delay in conducting or concluding the enquiry proceedings against the respondent. The disciplinary proceedings against the respondent commenced only after the re-investigation report was submitted by the Inspector of Police, CBCID in the year 2010. Thereafter, in adherence to principles of natural justice, enquiry was conducted, in which, as many as 16 witnesses were examined on behalf of the department and the respondent was also given opportunity to cross-examine them. The enquiry officer thereafter submitted his report on 13.08.2015 which was differed by the second appellant in his proceedings dated 13.02.2018. After giving an opportunity to the respondent to submit his further explanation, the order of punishment was imposed, which is proportionate to the nature of delinquency committed by the respondent.

(ii) With respect to merits of the case, it is submitted by the learned Additional Advocate General appearing for the appellants that before the Enquiry Officer, 16 witnesses were examined. Among them, PW1 is Rathinasamy, Son of Parameswaran and he is the husband of the injured Saradha. According to PW1, on 30.06.1999 at about 1.30 pm when his wife was returning from her relative's house and walking on the road side in



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Nagercoil to Thiruvananthapuram Road, near the house of Murugan Asari, one

Rathinasamy, Son of Valiyaperumal Nadar had driven the two wheeler bearing

Registration No. TN 74 B 8641 in a rash and negligent manner and hit his wife

Saradha. On hearing her scream, he reached the accident spot from his house

and saw her wife lying with injuries. He also saw the two wheeler driver

Rathinasamy with injuries on his head, fore-head, nose and chest. It was his

specific statement that in the spot, there was only a motor cycle lying and there

was no Ambassador Car or any other four wheeler seen. Similarly, Saradha,

Wife of Rathinasamy, who was examined as PW2, has stated that she fell

down after being hit by the two wheeler driven by Rathinasamy, Son of

Valiyaperumal Nadar. When her statement was recorded by the police officials

she has only stated that she was hit by a motor cycle driven by Rathinasamy,

Son of Valiyaperumal Nadar. It was specifically recorded that when she was

brought to the Court, she was asked to depose as if she was hit by the

Ambassador Car on the date of accident. Therefore, it is clearly made out that

the victim was hit by the two wheeler and the involvement of Ambassador Car

is clearly ruled out. However, the respondent coerced and compelled the

witness to depose otherwise. Thus, the investigation conducted by the

respondent is perfunctory and it cannot be appreciated. The respondent has

aided the claimants in the Original Petition to get compensation from the



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Insurance Company, for which purpose, he has made the witnesses depose falsely besides fabricating documentary evidence. The inclusion of, or involvement of the four wheeler - Ambassador Car, in the accident is clearly an after-thought made with an intention to make false insurance claim.

(iii) According to the learned Additional Advocate General appearing for the appellants, the learned Judge ought not to have considered the final order passed in S.T.C. No. 3158 of 1999 on the file of Judicial Magistrate, Padmanabhapuram as well as the award passed in CMA (MD) No. 315 of 2006 inasmuch as they are the documents emanated much after the filing of the false charge sheet. When the charge sheet itself is false, the aforesaid documents cannot be relied on for any purpose. The respondent, as an Inspector of Police, ought to have discharged his duties diligently to unearth the correct factual position. However, he himself has played foul and introduced the involvement of Ambassador Car in the accident solely for the purpose of enabling the road accident victims to get compensation from the insurance company, which they are not entitled to. In this context, the learned Additional Advocate General placed reliance on the statements of PW1, PW2, and PW6 as well as the statement of Mr. Sankar Dev, Inspector of Police, CB-CID.

(iv) The learned Additional Advocate General appearing for the



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appellants also submitted that the perfunctory investigation conducted by the respondent to facilitate the claimants to get compensation from the insurance company has been adequately proved by the statement of the injured victim/PW2. While so, the respondent cannot take advantage of the compensation paid by the Insurance Company on the basis of the award passed by the Tribunal. PW2, Saradha in her statement before the Enquiry Officer has clearly stated that she was asked to depose before the Court as if the husband of the claimant Gomathi, namely Rathinasamy was hit by the Ambassador Car and therefore, she has stated so when her statement was recorded under Section 164 of the Code of Criminal Procedure. Thus, the respondent has influenced the witnesses and manipulated the documents to get compensation from the Insurance Company and it is not befitting the position held by the respondent as Inspector of Police and an investigation officer of the case.

(v) The learned Additional Advocate General appearing for the appellants further submitted that in a criminal case, the standard of proof required is that the case against the accused has to be proved beyond all reasonable doubt, but in a departmental enquiry, the standard of proof required is the existence of preponderance of probabilities. In the present case, there are enough evidence made available against the respondent to show that the inclusion of Ambassador Car in the road accident has been purportedly made



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to enable the victims of road accident to get compensation from the Insurance

Company and to enrich himself. Even though the case registered in Crime No.

17 of 2005 under Section 420 of IPC was referred as mistake of fact, re-investigation was conducted, in which, it was clearly brought out that the respondent was instrumental in including the Ambassador Car, which was not involved in the accident at all, to get compensation to the legal heirs of the deceased Rathinasamy. Having regard to the statement of the witnesses and the documentary evidence, the appellants 1 and 2 have rightly imposed the punishment of compulsory retirement, which is proportionate to the nature of delinquency committed by the respondent. However, the learned Judge, merely citing the delay in concluding the disciplinary enquiry, has allowed the writ petition filed by the respondent. With these submissions, the learned Additional Advocate General prayed for setting aside the order of the learned Judge and for allowing this writ appeal.

5. (i) Per contra, Mr. S.T.S. Murthy, learned Senior Counsel appearing for the respondent would contend that the accident took place on 30.06.1999. The re-investigation report was submitted to the appellants on 30.09.2010. After two years, the charge memo was served on the respondent on 30.07.2013. Immediately, the respondent submitted his explanation on



09.09.2013 and the enquiry officer was appointed and he commenced the enquiry on 19.08.2014 and concluded the same on 09.02.2015. After perusing the materials made available, the Enquiry Officer submitted his report on 13.08.2015 holding that the charge against the respondent has not been proved. However, after three years, the second appellant issued a show cause notice dated 13.02.2018 calling upon the respondent to submit his further explanation to the differed views expressed by him. Immediately, the respondent submitted his explanation. Upon receipt of the same, the order dated 26.11.2019, imposing the punishment of compulsory retirement was passed against the respondent. Thus, there is enormous delay in initiating the disciplinary proceedings until punishment was imposed and it vitiates the entire disciplinary proceedings as it has caused acute prejudice to the respondent.

(ii) To substantiate his contentions, the learned Senior counsel appearing for the respondent placed reliance on the decision of the Honourable Supreme Court in ***P.V. Mahadevan vs. Managing Director, Tamil Nadu Housing Board [2005 (6) Supreme Court Cases 636]***, which was also relied on by the learned Judge, and submitted that inordinate delay in conducting disciplinary proceedings must be supported by a convincing explanation by the employer, else the prolonged enquiry proceedings would cause prejudice to the



delinquent. For the same proposition of law, he also placed reliance on the decision of the Honourable Supreme Court in ***State of Madhya Pradesh vs. Bani Singh [AIR 1990 SC 1308]*** and submitted that in the absence of any satisfactory explanation for the delay in initiating disciplinary proceedings, it would be unfair to permit such departmental proceedings to continue much to the chagrin of the delinquent as it would definitely cause prejudice to the delinquent officer. Reliance was also placed on the decision of the Honourable Supreme Court in ***M.V. Bijlani vs. Union of India [2006 (5) Supreme Court Cases 88]*** wherein it was held that initiation of and continuance of the disciplinary proceedings for a long period would evidently prejudice the delinquent officer.

(iii) As regards the differed view taken by the second appellant against the report of the enquiry officer, who has concluded that the charge against the respondent was not proved, it is submitted by the learned Senior counsel for the respondent that the respondent has submitted a detailed representation and justified the conclusion reached by the enquiry officer. However, without considering any of the grounds raised by the respondent, the order of punishment came to be passed by the second appellant. On appeal, the first appellant also did not take note of the grounds raised by the respondent and confirmed the order of the second appellant. In this context, reliance has been



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placed on the decision of the Honourable Supreme Court in ***Punjab National Bank and others vs. Kunj Behari Misra and others [1998 II LLJ 809 Supreme Court]*** wherein it was held that whenever the disciplinary authority

disagreed with the enquiry authority, then he must record his tentative reasons for the disagreement and also give the delinquent officer an opportunity to represent, before he reaches a conclusion. This was also the view taken by this Court in the order dated 13.04.2022 passed in WP No. 28541 of 2015 and WP No. 9062 of 2021 in the case of A. Babu vs. Vinod Kumar.

(iv) The learned Senior Counsel for the respondent also submitted that even in the first information report, it was clearly recorded that the Ambassador Car bearing Registration Number TMZ 1812 had hit against the motor cycle driven by Rathinasamy, Son of Valiyaperumal and subsequently he died. In the very same accident, Saradha, Wife of Rathinasamy (Son of Parameswaran) also sustained injuries. It was Mr. Rathinasamy, husband of Saradha, who took her to the hospital with the help of one Murugan Asari. The husband of the injured also tendered his evidence before the Judicial Magistrate, Nagercoil on 22.11.2005 stating that the Ambassador car was driven at a high speed and dashed against the motor cycle driven by Rathinasamy, Son of Valiyaperumal. In the impact, Rathinasamy, son of Valiyaperumal had hit Saradha, wife of Rathinasamy (son of Parameswaran).



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The injured victim Saradha also deposed to the effect that while she was walking on the road, a two wheeler as well as an Ambassador Car met with an accident and in the impact, the motor cycle hit her. It is on the basis of such un rebuttable evidence, the Tribunal awarded compensation. The learned Senior counsel also submitted that the Insurance Company has given a complaint based on which the case in Crime No. 17 of 2005 was registered and after investigation it was referred as mistake of fact. Aggrieved by the same, the Insurance Company preferred an appeal, in which, re-investigation was ordered to be conducted. Accordingly, re-investigation was conducted and the report of re-investigation was submitted on 30.09.2010. It is pertinent to mention that the re-investigation commenced at the instance of the Insurance Company. However, notwithstanding the re-investigation report, the Insurance Company entered into a settlement before the Lok Adalat when C.M.A. (MD) No. 315 of 2006 was posted for settlement on 17.09.2011. On 17.09.2011, the Insurance Company has given consent for payment of compensation of Rs.4,50,000/- as against Rs.5,00,000/- awarded by the Tribunal. Thus, it is evident that the Insurance Company approbates and reprobates. On the one hand, complaint was given against the respondent for having created documents to make it as if the Ambassador Car was involved in the accident. On the other hand, the Insurance Company settled the compensation amount to



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the claimants. If really the Insurance Company contends that the Ambassador Car was not involved in the accident, they ought not to have settled the compensation amount to the claimants before the Lok Adalat. Having paid the compensation amount, it is no longer open to the Insurance Company to contend that the Ambassador Car was falsely included in the case to enable the victims of road accident to get compensation from them. Taking note of the above facts, the Enquiry Officer has concluded that the charge against the respondent was not proved. The enquiry officer also took note of the fact that the Driver of the Ambassador Car admitted his guilt and paid the fine amount of Rs.2,500/- in S.T.C. No. 3158 of 1999. While so, by no stretch of imagination, it can be said that the respondent had fabricated the documents to make it as if the Ambassador Car was involved in the accident. In such circumstances, the Enquiry Officer has rightly concluded that the investigation done by the respondent has been given a seal of approval by the competent Tribunal as well as the Criminal Court and therefore, there is no scope to departmentally proceed against him. In this context, the learned Senior counsel for the respondent placed reliance on the decision of the Honourable Supreme Court in ***K.N. Govindan Kutty Menon vs. C.D. Shaji [2012 (2) Supreme Court Cases 51]*** and contended that an award passed by the Lok Adalat is a decree of a Civil Court and as such, it is executable by that Court and such



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award will be binding on the parties to it. In the present case, the Insurance Company, having entered into a settlement before the Lok Adalat and paid the compensation amount, is legally estopped from giving a complaint against the respondent and still contend that the Ambassador Car was not involved in the accident at all. The learned Judge, on appreciation of the above facts, has rightly allowed the writ petition filed by the respondent and it does not call for any interference by this Court.

6. We have heard the learned Additional Advocate General appearing for the appellants as well as the learned Senior counsel for the respondent and also perused the materials placed on record.

7. It is evident that the basis for initiation of the disciplinary proceedings against the respondent is the complaint given by Oriental Insurance Company Limited, alleging that the respondent facilitated the victims of road accident to get compensation from them, by falsely introducing the theory of involvement of the Ambassador car bearing Registration No. TMZ 1812. According to the Insurance Company, the report of the investigator engaged by them has unfolded that there was no Ambassador Car at all involved in the accident and that, a false claim was made with the aid of



the respondent herein, Inspector of Police by then. On the basis of this complaint, a case in Crime No. 17 of 2005 was registered against the respondent under Section 420 IPC, which ultimately ended in closure by referring to it as mistake of fact by the enquiry officer Tr. Simon Prathap Singh. Aggrieved by the closure of the complaint, the Insurance Company had taken the matter on appeal. In the appeal, re-investigation was ordered to be conducted by the appellate authority. After re-investigation, a report was submitted on 30.09.2010. Based on the re-investigation report, a charge memorandum dated 30.07.2013 was issued and the departmental enquiry commenced. The enquiry officer submitted a report on 13.08.2015 holding that the respondent was not guilty of the charge. Not accepting such report, the second appellant issued a notice for disagreement on 13.02.2018 and ultimately, passed the order of punishment of compulsory retirement on 26.11.2019, which was impugned in the writ petition.

8. It is important to point out at this juncture that the re-investigation report dated 30.09.2010 submitted against the respondent, was also sent to the Insurance company / complainant, at whose behest the departmental disciplinary proceedings came to be initiated against the respondent. Notwithstanding the same, the insurance company had paid the entire



compensation amount payable to the victims of the road accident, on

17.09.2011 before the Lok Adalat. The award of the Lok Adalat shall be

deemed to be a decree of a civil court and as such, it is executable by that court

[Refer: *K.N.Govindan Kutty Menon vs. C.D.Shaji, (2012) 2 SCC 51*].

Therefore, when the complainant itself had settled the issue, the further proceedings / continuance of the proceedings initiated against the respondent will certainly lose significance.

9. Be that as it may, on behalf of the respondent before the Writ Court, heavy emphasis has been laid to the fact that the entire proceedings initiated against the respondent are vitiated on the ground of delay. In this regard, several decisions have been referred to, by stating that such delay has caused serious prejudice and hardship to the respondent. The learned Judge by the order impugned herein, set aside the order of punishment and allowed the writ petition filed by the respondent. Hence, we proceed to examine, whether there was enormous delay in commencing and concluding the disciplinary proceedings against the respondent.

10. It is not in dispute that the accident had taken place on 30.06.1999, in which, a two wheeler driver died and another person got



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injuries. The accident happened, due to the negligence on the part of the driver of the Ambassador Car, who, before the Judicial Magistrate, Padmanabhapuram, admitted his guilt and paid the fine amount in lieu of sentence. However, at the behest of Insurance Company, a complaint was given against the respondent herein on 16.10.2004, based on which, a case in Crime No. 17 of 2005 was registered. In other words, the starting point of initiation of disciplinary proceedings against the respondent can be reckoned as the date on which the case in Crime No. 17 of 2005 came to be registered against him. Upon investigation, the said criminal case was closed as mistake of fact by Tr. Simson Prathap Singh, Deputy Superintendent of Police, District Crime Branch. However, the Insurance Company/complainant preferred an appeal against such conclusion reached by Tr. Simson Prathap Singh. Pursuant to the same, the appellate authority directed re-investigation and it was tasked upon with Mr. Sankar Dev, Inspector of Police, CB CID, Tirunelveli. The re-investigation officer ultimately concluded, through his report dated 30.09.2010 that the respondent as well as Tr. Simson Prathap Singh deserve to be proceeded with departmentally for the perfunctory investigation/enquiry, as the case may be. The re-investigation report dated 30.09.2010 was not acted upon immediately. After three years, i.e., on 30.07.2013, a charge memo was issued to the respondent. After receipt of the explanation from the respondent,



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enquiry was conducted and the enquiry officer submitted his report holding that the charge against the respondent was not proved, on 13.08.2015. Even thereafter, nothing progressed. Only on 13.02.2018, the second appellant sent a memo expressing his disagreement with the report of the enquiry officer and called upon the respondent to show cause as to why the report of the enquiry officer should not be differed. The respondent submitted his further explanation on 04.04.2018. But, the order of punishment of compulsory retirement came to be passed on 26.11.2019. Thus, there is undue delay at every stage of the disciplinary proceedings initiated against the respondent. However, there is absolutely no explanation whatsoever submitted on behalf of the appellants for the same. It is in such circumstances, the learned Judge, by placing reliance on the decision of the Honourable Supreme Court in ***P.V. Mahadevan vs. Managing Director, Tamil Nadu Housing Board [2005 (6) Supreme Court Cases 636]*** concluded that such delay vitiated the disciplinary proceedings as it has caused prejudice to the respondent and hence, the writ petition was liable to be allowed by setting aside the order of punishment inflicted on the respondent. We are in agreement with such a conclusion reached by the learned Judge.



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11. Finding no merit, this writ appeal deserves to be dismissed and is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.M.D., J) (M.S.Q., J)

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Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-Speaking Order
rsh

To

1. The Chief Secretary
Government of Tamil Nadu
Fort St. George, Chennai
2. The Additional Chief Secretary
Government of Tamil Nadu
Fort St. George, Chennai
3. The Director General of Police
Police Head Quarters, Mylapore
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Tirunelveli Range
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